



**Nos. 60-62 Beaconsfield Street and 7-13 Queens Parade,  
Newport**

**Demolition of existing structures, construction of a  
multi-dwelling housing development containing 18 x 3-  
bedroom dwellings with basement carparking**

## **Statement of Environmental Effects**

**For Northern Beaches Council**

**Prepared by Geoff Goodyer  
November 2019**

**Project No. 19-098**

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## **1. Executive summary**

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- 1.1. The proposal is to demolish all existing structures and construct a townhouse development comprising 18 x 3-bedroom dwellings with basement car parking for 43 vehicles, landscaping at 60-62 Beaconsfield Street and 7-13 Queens Parade, Newport.
- 1.2. The development has been designed around the existing trees on site and to link the vegetation corridors through the site from one street frontage to the other.
- 1.3. The proposal achieves all of the planning objectives Pittwater LEP 2014. A minor breach of the building height standard is proposed to enable the provision of canopies over the proposed terraces to improve residential amenity and enhance the sustainability credentials of the development by providing for solar power generation.
- 1.4. This Statement of Environmental Effects includes a detailed assessment of the proposal against the provisions of Pittwater 21 DCP and finds that all objectives are achieved. Where there are variations to numerical controls they are minor and do not undermine achievement of the objectives of the control.
- 1.5. Careful consideration has been given to maintaining the amenity of neighbouring and nearby residents and the design has safeguarded privacy, views and solar access for neighbours.
- 1.6. The presentation to the street follows an analysis of the context of the site in its urban environment. The buildings are staggered and broken up to reduce their bulk. The scale of the buildings is consistent with development in the surrounding area.
- 1.7. A landscape proposal has been developed to ensure the buildings sit within a densely landscaped setting and that the landscaping complements and enhances the streetscape.
- 1.8. The design of the proposal has been developed in consultation with Council's planners and technical officers and is considered to be suitable for approval.

## **2. Introduction**

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- 2.1. This Statement of Environmental Effects has been prepared by Geoff Goodyer of Symons Goodyer Pty Limited, Balgowlah. My details are included in Appendix A of this Statement of Environmental Effects.
- 2.2. I am a town planner with over 30 years' experience in local government and private practice. I am a Registered Planner accredited by the Planning Institute of Australia.
- 2.3. This Statement of Environmental Effects assesses the impacts of a proposal to demolish all existing structures and construct a townhouse development comprising 18 x 3-bedroom dwellings with basement car parking for 43 vehicles, landscaping at No. 60-62 Beaconsfield Street and 7-13 Queens Parade, Newport under section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- 2.4. In the course of preparing this Statement of Environmental Effects I have:
- inspected the site and surrounding locality;
  - taken photographs of the site and surrounding locality; and
  - reviewed relevant environmental planning instruments and Council policies, in particular *Pittwater Local Environmental Plan 2014* and *Pittwater 21 Development Control Plan*.

### **3. Pre-lodgement consultation with Council**

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- 3.1. The applicant held a formal pre-lodgement meeting with Council's planners and technical officers on 25 June 2019.
- 3.2. In response to specific concerns raised at the meeting the proposal was modified and Council's written advice included consideration of the amended proposal. Initial concerns related particularly to streetscape presentation and boundary setbacks. The Council provided notes from the meeting and the comments were supportive of the amended proposal.
- 3.3. Consultation with Council officers has continued throughout the design refinement process as detailed issues are resolved and any concerns that have been raised have been addressed.

#### **4. Description of proposal**

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- 4.1. The proposal is to demolish all existing structures and construct a townhouse development comprising 18 x 3-bedroom dwellings with basement car parking for 43 vehicles, landscaping at No. 60-62 Beaconsfield Street and 7-13 Queens Parade, Newport.
- 4.2. The development has been designed around existing vegetation on the site and provides a corridor of planting linking the street frontages. Vehicular access has been sited to enable the retention of street trees which form an important streetscape element in Queens Parade.
- 4.3. The development steps up the slope of the land from Beaconsfield Street up to Queens Parade to reflect the natural topography of the site.
- 4.4. All of the townhouses have pedestrian access at ground floor level. Lifts provide access within all of the dwellings. Living areas are provided on the upper level of the dwellings with access to a rooftop terrace for private open space.
- 4.5. Carparking is provided in two basement areas, one with access from Beaconsfield Street and the other with access from Queens Parade. Each dwelling is provided with garage parking for two vehicles. The basements also provide visitor car parking for 7 vehicles (including 2 disabled spaces) and a car wash bay. The basement also houses a bin storage room, a bulk waste room and a plant room.
- 4.6. The buildings provide staggered setbacks to the street frontages and are broken up to provide a domestic scale and to enhance the streetscape. Rooftop canopies are recessed away from the street frontages to minimise bulk and scale.
- 4.7. The proposal involves works only on the land described in Clause 5.1 of this Statement of Environmental Effects. However, the landscape plans include works that include beautifying the Queens Parade and Beaconsfield Street road reserves. If Council agrees that these works are in the public interest then it can impose a condition of consent requiring these works to be carried out pursuant to clause 4.17(f) of the Environmental Planning and Assessment Act 1979, which provides:

*A condition of consent may be imposed if:*

- (f) *it requires the carrying out of works (whether or not being works on land to which the application relates) relating to any matter referred to in section 4.15(1) applicable to the development the subject of the consent,*

- 4.8. The proposal is shown on the following plans:



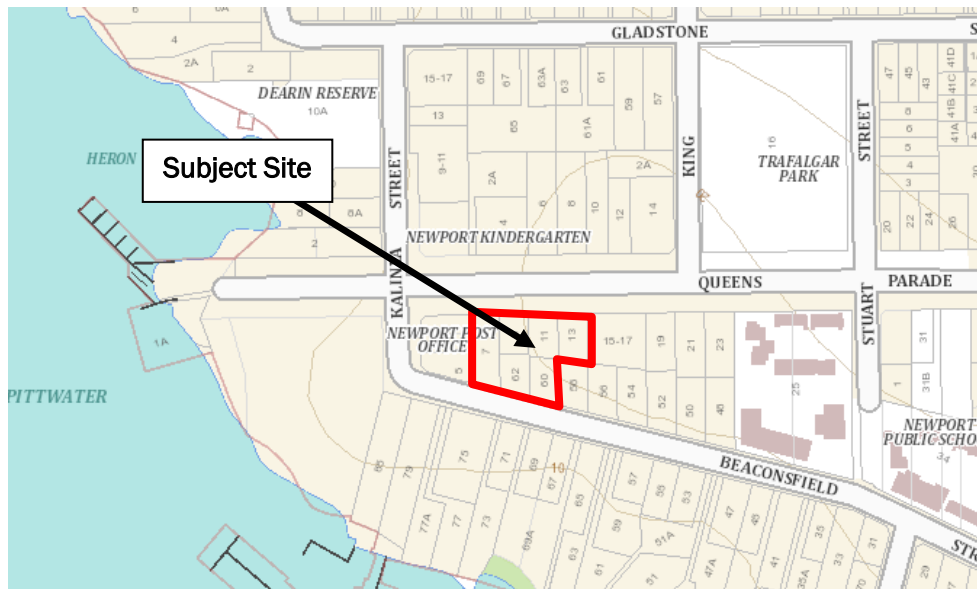
No.	Drawing	Drawn by
DA001/A	Site analysis plan	Nettleton Tribe Architects
DA002/A	Demolition plan	Nettleton Tribe Architects
DA003/E	Site plan / roof plan	Nettleton Tribe Architects
DA004/G	Beaconsfield St ground floor plan	Nettleton Tribe Architects
DA005/H	Beaconsfield Level 1 plan and Queens Parade basement level plan	Nettleton Tribe Architects
DA006/F	Beaconsfield Level 2 plan and Queens Parade ground level plan	Nettleton Tribe Architects
DA007/E	Beaconsfield roof plan and Queens Parade level 1 plan	Nettleton Tribe Architects
DA020/D	Elevations – sheet 1	Nettleton Tribe Architects
DA021/C	Elevations – sheet 2	Nettleton Tribe Architects
DA030/E	Sections	Nettleton Tribe Architects
DA043/C	Adaptable unit plan – Type Q1	Nettleton Tribe Architects
DA044/C	Adaptable unit plan – Type B1	Nettleton Tribe Architects
DA045/C	Adaptable unit plan – type B2	Nettleton Tribe Architects
DA050/A	Shadow diagram proposed – winter	Nettleton Tribe Architects
DA051/A	Shadow diagram existing – winter	Nettleton Tribe Architects
DA052/A	Solar access analysis	Nettleton Tribe Architects
DA055/A	Height limit diagram	Nettleton Tribe Architects
DA075/A	Landscape area plan	Nettleton Tribe Architects
DA090/A	Perspectives – sheet 1	Nettleton Tribe Architects
DA091/A	Perspectives – sheet 2	Nettleton Tribe Architects
L.SK.01/B	Landscape sketch plan – GF	Scape Design
L.SK.02/B	Landscape sketch plan – roof	Scape Design
L.SK.03/B	Landscape planting plan – GF	Scape Design
L.SK.04/B	Landscape planting plan – roof	Scape Design
L.SK.05/B	Existing tree plan	Scape Design
L.SK.06/B	Detailed plan 1	Scape Design
L.SK.07/B	Detailed plan 2	Scape Design
L.SK.08/A	Landscape sections	Scape Design
D01/A	Site/roof drainage plan	NB Consulting Engineers
D02/A	Level 2 drainage plan	NB Consulting Engineers
D03/A	Level 1 and Queens Parade basement level plan – Sheet 1	NB Consulting Engineers
D04/A	Level 1 and Queens Parade basement level plan – Sheet 2	NB Consulting Engineers
D05/A	Ground level drainage plan	NB Consulting Engineers
D06/A	MUSIC catchment plan	NB Consulting Engineers
D07/A	Notes and calculations	NB Consulting Engineers
D08/A	Details	NB Consulting Engineers
001DT/1	Detail survey	LTS Lockley
001DT/2	Detail survey	LTS Lockley

4.9. The proposal is supported by the following documentation:

Title	By
Arborist report	Footprint Green
BASIX Certificate No. 1054289M	Eco Certificates
BCA 2019 Indicative Compliance Report – Design Phase	Building Certifiers Australia
Construction Management Plan	Auswide Consulting
Disability Access Report	Cheung Access
Fire Engineering Statement	GHD
Geotechnical Risk Assessment	JK Geotechnics
NatHERS Certificate No. 4346360	Eco Certificate
Traffic and Transport Assessment	Traffic and Transport Planning Associates
Statement of Environmental Effects	Symons Goodyer
Waste Management Plan	

## 5. Description of site and locality

- 5.1. The subject site comprises Lot 4B DP 159498, Lot 3B DP 164259, Lot 2 DP 209106, Lot 3A DP 164259, Lot 4A DP 159498 and Lot 5A DP 158658. It is known as 60-62 Beaconsfield Street and 7-13 Queens Parade, Newport. It is located on the northern side of Beaconsfield Street and extends through to the southern side of Queens Parade. The location of the site is shown in the following maps:



Map 1 - Location (Source: sixmaps)



Map 2 - Aerial photo (Source: sixmaps)

- 5.2. The site is an amalgamation of six (6) allotments. The amalgamated site is irregularly shaped. It has a frontage of 62.385m to Beaconsfield Street to the south and a frontage of 80.465m to Queens Parade to the north. The eastern side boundary is irregular and has a total length of 85.155m. The western side boundary has a length of 46.355m.
- 5.3. The site area is 3,928m<sup>2</sup>.
- 5.4. The site slopes steeply down from its Queens Parade frontage to its Beaconsfield Street frontage, with a relatively steep embankment on part of the Beaconsfield Street frontage. The total fall from the north-eastern corner to the south-western corner of the site is 10.38 metres, representing an average grade of 1 in 8.9 (11.2% or 6.4°).
- 5.5. The site is currently occupied by a 40-place child care centre plus 2 x 2-bedroom dwellings on 7 Queens Parade, and five dwelling houses on the remaining allotments. The existing buildings are 1 and 2 storeys in height. The area around the buildings is landscaped and the site contains a number of mature trees.
- 5.6. The site adjoins a local shopping centre to the west. Adjoining development to the east comprises a townhouse development and a dwelling house.
- 5.7. The locality contains a variety of development:
- Newport local shipping centre (adjoining to the west)
  - Newport Arms Hotel (on Kalinya Street to the west)
  - Dwelling houses (on Beaconsfield Street and Queens Parade to the east)
  - Townhouses (on Queens Parade to the east and Beaconsfield Street to the south)
  - Residential flat buildings (on Queens Parade to the north)
  - Newport Public School (100m to the east)
  - Automotive repairs (on the north-eastern corner of Kalinya Street and Queens Parade)
  - Metro Mirage Hotel (on the north-western corner of Kalinya Street and Queens Parade)
  - Trafalgar Park (100m to the north-east)
  - Dearin Reserve (100m to the north-west)
  - Newport Anchorage Marina (on Beaconsfield Street to the south)
- 5.8. The following photographs show the site and surrounding area.





**Photograph 1:** The subject site, showing the rear of 7 Queens Parade (also known as 64 Beaconsfield Street).



**Photograph 2:** The subject site, showing the rear of 7 Queens Parade (also known as 64 Beaconsfield Street).





**Photograph 3:** The subject site, showing 62 Beaconsfield Street.



**Photograph 4:** The subject site, showing 60 Beaconsfield Street.





**Photograph 5:** The subject site, showing the existing kindergarten at 7 Queens Parade.

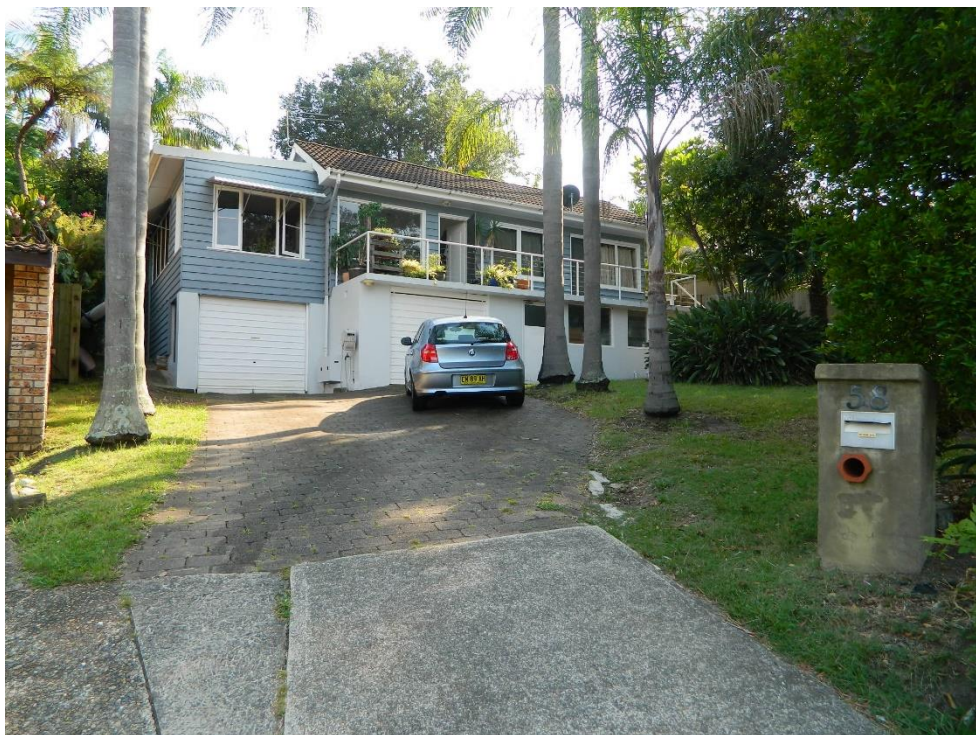


**Photograph 6:** The subject site, showing the dwelling house at 9 Queens Parade.





**Photograph 7:** The subject site, showing the dwelling house at 11 Queens Parade.



**Photograph 8:** The neighbouring dwelling house to the east, 58 Beaconsfield Street.





**Photograph 9:** Neighbouring shopping centre to the west on Beaconsfield Street.

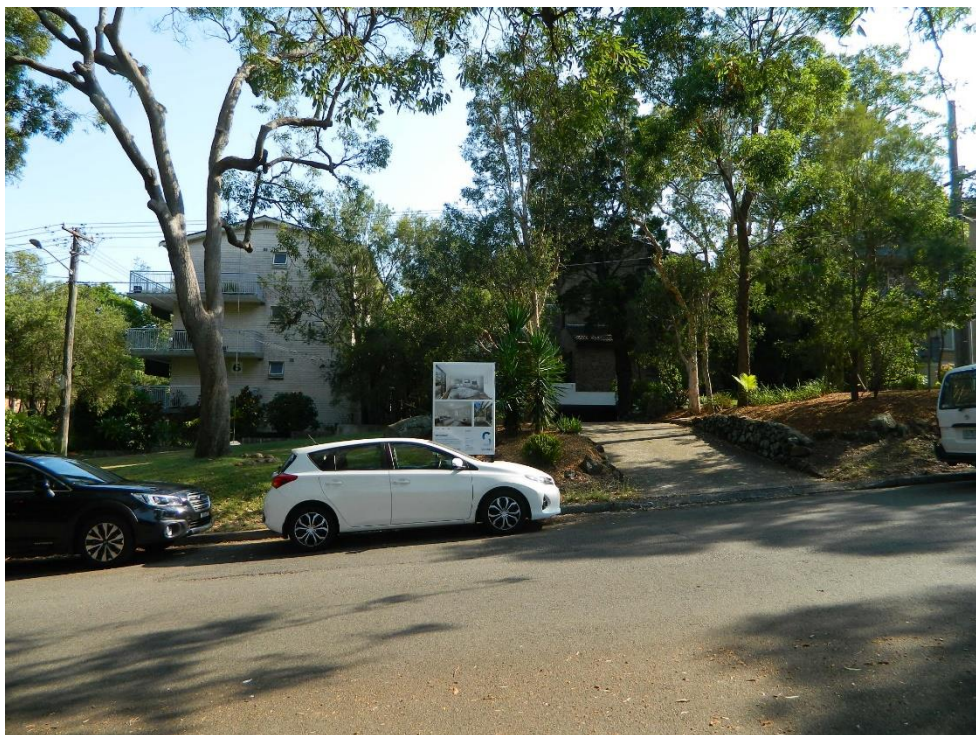


**Photograph 10:** Neighbouring shopping centre to the west on Queens Parade.





**Photograph 11:** Neighbouring townhouses to the east, 15-17 Queens Parade.



**Photograph 12:** Existing development on the opposite (northern) side of Queens Parade, comprising walk-up residential flat buildings.





**Photograph 13:** Existing townhouse development on the southern side of Beaconsfield Street opposite the subject site.



**Photograph 13:** The Newport Arms Hotel on Kalinya Street to the west of the subject site.



**Photograph 15:** Public car parking on Queens Parade to the west of the subject site.

## **6. Pittwater LEP 2014**

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### **6.1. Is the proposal permissible?**

- 6.1.1. The land is partly zoned R3 Medium Density Residential under PLEP 2014. The proposal is permissible with development consent. It falls within the definition of “multi-dwelling housing”:

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

- 6.1.2. The proposed demolition requires development consent pursuant to clause 2.7 of PLEP 2014. The proposed strata subdivision requires development consent pursuant to clause 2.6 of PLEP 2014. The proposed landscaping and car parking are ancillary development to the medium density housing and are therefore permissible with development consent.

### **6.2. Aims of the LEP (clause 1.2)**

- 6.2.1. The proposal is consistent with the relevant aims of PLEP 2014 at Clause 1.2 in that it:
- ✓ Is economically, environmentally and socially sustainable
  - ✓ Is consistent with the desired future character of the neighbourhood
  - ✓ Contributes to the range of housing to provide for the needs of the community both now and in the future
  - ✓ Protects Pittwater’s natural areas
  - ✓ Has no impact on European and Aboriginal heritage
  - ✓ Is on a site that is not subject to environmental hazards
  - ✓ Enhances the health and well-being of the residents

### **6.3. Objectives of the Zone**

- 6.3.1. The proposal is consistent with the relevant objectives of the R3 Medium Density Residential zone in that it:
- ✓ Provides for the housing needs of the community in a medium density residential environment
  - ✓ Contributes to the variety of housing types within a medium density residential environment

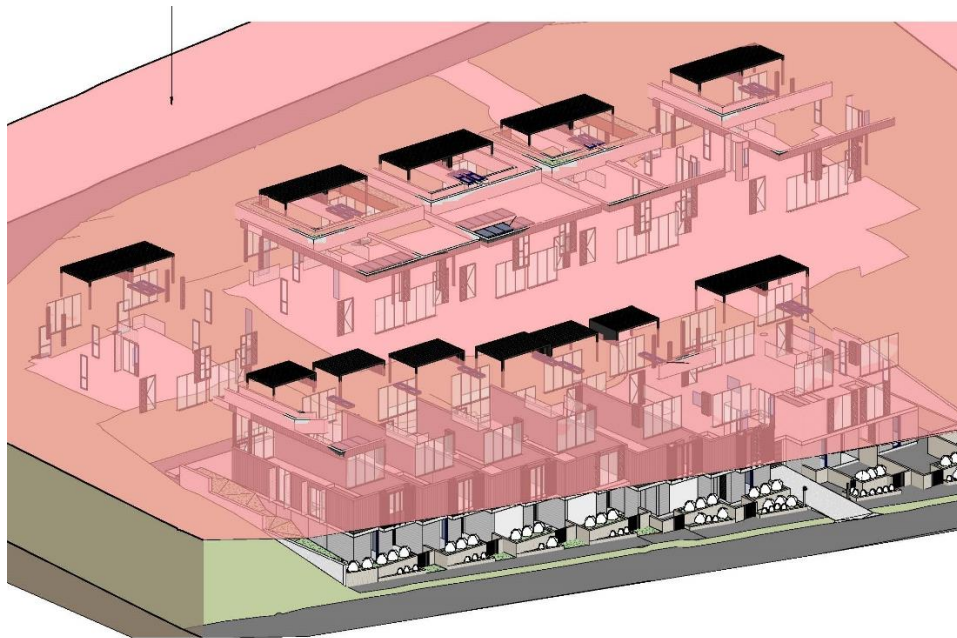


#### 6.4. Compliance Table

LEP CONTROLS	CONTROL	PROPOSED	COMPLIANCE
Clause 4.3(2) – Height of Buildings	8.5m	9.6m	No
Clause 4.5A – Density controls for certain residential accommodation	1 dwelling / 200m <sup>2</sup> of site area	1 dwelling / 218.2m <sup>2</sup> of site area	Yes

#### 6.5. Height of buildings (clause 4.3)

- 6.5.1. The proposal generally complies with the 8.5m height limit that applies to the site.
- 6.5.2. However, the proposal includes small rooftop terraces that will improve the amenity of the dwellings. These terraces are provided with canopies for weather protection. The canopies also provide for solar electricity generation to enhance the sustainability credentials of the development. The canopies exceed the 8.5m height control up to a maximum height of 9.6m. The extent of the breach of the height control is shown in the following diagram:



▲ HEIGHT LIMIT PLANE - PERSPECTIVE

- 6.5.3. Clause 4.6 of PLEP 2014 enables Council to vary the development standard in certain circumstances. Attached is a written request pursuant to clause 4.6 of PLEP 2014 that demonstrates that the proposal will:

- ✓ Satisfy the objectives of the control
- ✓ Satisfy the objectives of the R3 Medium Density Residential zone
- ✓ Provide sufficient environmental planning grounds to justify the variation

- 6.5.4. The request to vary the development standard is considered to be well founded.

**6.6. Residential density (clauses 4.5A)**

- 6.6.1. Clause 4.5A(4) of PLEP 2014 limits the residential density of multi dwelling housing development on the site to a maximum of 1 dwelling per 200m<sup>2</sup> of site area, ie: a maximum of 19 dwellings. The proposal provides for 18 dwellings at a density of 1 dwelling per 218.2m<sup>2</sup> of site area and complies comfortably with the control.

**6.7. Heritage conservation (clause 5.10)**

- 6.7.1. The site does not contain a heritage item, is not in the vicinity of any heritage items and is not within a conservation area.

**6.8. Acid sulfate soils (clause 7.1)**

- 6.8.1. The site is within Class 5 Acid Sulfate Soil area. Excavation is proposed for the basement car parking area down to a level of RL15.5. No works are proposed below AHD5.0 and no further investigation is required with regards to acid sulfate soils.

**6.9. Earthworks (clause 7.2)**

- 6.9.1. The proposed development involves ancillary earthworks. Clause 7.2(3) of PLEP 2014 requires the following matters to be taken into consideration:

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

Comment: Detailed hydraulic plans and calculations have been prepared by NB Consulting Engineers and form part of the development proposal. They ensure that the proposal will not result in detrimental effects on drainage patterns and soil stability within the locality.

- (b) *the effect of the development on the likely future use or redevelopment of the land,*

Comment: The earthworks facilitate the proposed development of the land.

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

Comment: Material excavated from the site will comprise clean uncontaminated material.

- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*

Comment: The development will maintain the amenity of adjoining properties, as discussed in this Statement of Environmental Effects.

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

Comment: Material excavated from the site will either be re-used on site or disposed of to a licensed facility.

- (f) *the likelihood of disturbing relics,*

Comment: Given the historical use of the site for residential and child care purposes it is unlikely that the proposal will disturb any relics on the site.

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

Comment: The proposal includes measures to prevent soil erosion and sedimentation. The dwellings will be connected to reticulated sewerage services. The proposal will not have adverse impacts on any waterway or environmentally sensitive area.

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

Comment: The proposal includes measures to prevent soil erosion and sedimentation. The dwellings will be connected to reticulated sewerage services. Other potential impacts may be addressed by appropriate conditions of development consent.

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

Comment: The site does not contain a heritage item, is not within the vicinity of any heritage items and is not within a heritage conservation area.

- 6.9.2. In summary, the proposal satisfies the matters for consideration in clause 7.2 of PLEP 2014.

## **6.10. Flood planning (clause 7.3)**

- 6.10.1. The subject site is not identified as flood prone land.

## **6.11. Coastal risk planning (clause 7.5)**

- 6.11.1. The site is not affected by any coastline hazards as shown on the Coastal Risk Planning map.



**6.12. Biodiversity (clause 7.6)**

6.12.1. The site is not within an area of sensitive biodiversity as shown on the Biodiversity map.

**6.13. Geotechnical hazards (clause 7.7)**

6.13.1. The site is not within a geotechnical hazard area as shown on the Geotechnical Hazard Map.

**6.14. Limited development on foreshore area (clause 7.8)**

6.14.1. The proposed development is not located within the foreshore area.

**6.15. Essential services (clause 7.10)**

6.15.1. The site is connected to all essential services.

## 7. Compliance Table - Pittwater 21 DCP

ITEM	STANDARD	PROPOSED	COMPLIANCE	PERFORMANCE
PITTWATER 21 DCP - Part B				
Heritage controls	Consider heritage impacts	Not affected	YES	YES
Density controls	Frontage minimum one-third the length of the longest side boundary	Frontages (62.385m and 80.465m) are greater than one-third the length of the longest side boundary (85.155m)	YES	YES
Landslip hazard	Comply with the requirements of the Geotechnical Risk Management Policy for Pittwater	Addressed in Geotechnical Assessment by JK Geotechnics	YES	YES
Contaminated land and potentially contaminated land	Comply with <i>SEPP 55 – Remediation of Land</i>	Land used historically for residential and child care purposes	YES	YES
Flood prone land	Satisfy Floodplain Development Manual, 2005 and Northern Beaches Council's Guidelines for preparing a Flood Management Report.	Land is not identified as being flood prone.	YES	YES
Flora and Fauna Conservation and Wildlife Corridors	Development shall not impact threatened species, etc or result in significant loss of native canopy trees.	Land is not identified as wildlife corridor, etc. Canopy trees retained and new planting proposed.	YES	YES
Preservation of Trees and Bushland Vegetation	Permit required to clear vegetation	See Arboricultural Impact Assessment by Footprint Green	YES	YES
Off-street Vehicle Parking Requirements	2 spaces per dwelling (36)	36 resident spaces	YES	YES
	1 space per 3 dwellings for visitors (6)	7 visitor spaces	YES	YES
	Accessible spaces 3% (1)	2 accessible spaces	YES	YES
	Wash bay (1)	1 wash bay	YES	YES
PITTWATER 21 DCP - Part C				
Landscaping	50% of front setback to be landscaped	Beaconsfield St 54% Queens Pde 50%	YES YES	YES YES
Safety and security	Adequate lighting and surveillance		YES	YES
View sharing	Reasonable sharing of views		YES	YES
Solar Access	3 hours sunlight between 9am and 3pm on 21 June		YES	YES
Privacy	Private areas to be protected from direct overlooking		YES	YES

ITEM	STANDARD	PROPOSED	COMPLIANCE	PERFORMANCE
Private open space	15% of the floor area of each dwelling 30 m <sup>2</sup> , minimum dimension 4 metres for ground floor units	>15% of the floor area of each dwelling >30 m <sup>2</sup> for ground floor units, dimension >4m	YES YES	YES YES
Adaptable housing	50% of units to be adaptable units (9)	50% of units are adaptable units (9)	YES	YES
<b>PITTWATER 21 DCP - Part D10 Newport Locality</b>				
Character	Walls facing street > 8m must be articulated.	Walls facing the street are all articulated.	YES	YES
Scenic protection	Minimise visual impact on the natural environment	Visual impact minimised with landscaping, etc.	YES	YES
Building materials	External colours and materials must be of a dark and earthy tone	Colours and materials to be dark and earthy tone	YES	YES
Boundary Setbacks				
Front	Queens Parade – 6.5m Beaconsfield St – 6.5m	3.0m – 6.5m 3.0m – 9.8m	PARTLY PARTLY	YES YES
Side (east)	3.7m – 4.4m	4.1m	PARTLY	YES
Side (west)	4.25m – 4.8m	1.9m – 3.0m	PARTLY	YES
Rear	6.5m	Not applicable	YES	YES
Building envelope				
East	4.2m + 45°	Inside envelope	YES	YES
West	4.2m + 45°	Outside envelope	PARTLY	YES
Landscaped area	Minimum 50% (1,964m <sup>2</sup> ), including impervious areas <1m in width (eg: pathways and the like)	50.5% (1,983m <sup>2</sup> )	YES	YES
Retaining walls	Kept to a minimum	Kept to a minimum	YES	YES

## **8. Pittwater 21 DCP**

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### **8.1. Considerations before consent is granted**

8.1.1. Under Clause A1.7 of Pittwater 21 DCP, prior to granting development consent, the Council must be satisfied that the development is consistent with:

- (i) Pittwater LEP 2014; and
- (ii) The desired character of the Locality; and
- (iii) The development controls applicable to the development

8.1.2. Council may also consider the provisions of a neighbouring Locality to the extent to which it may affect the subject site.

8.1.3. Under Clause A4.12, the subject site is within the Newport locality.

8.1.4. The desired character of the Newport locality is as follows:

*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 medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.*

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

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

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

*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 colocation of services and utilities.*

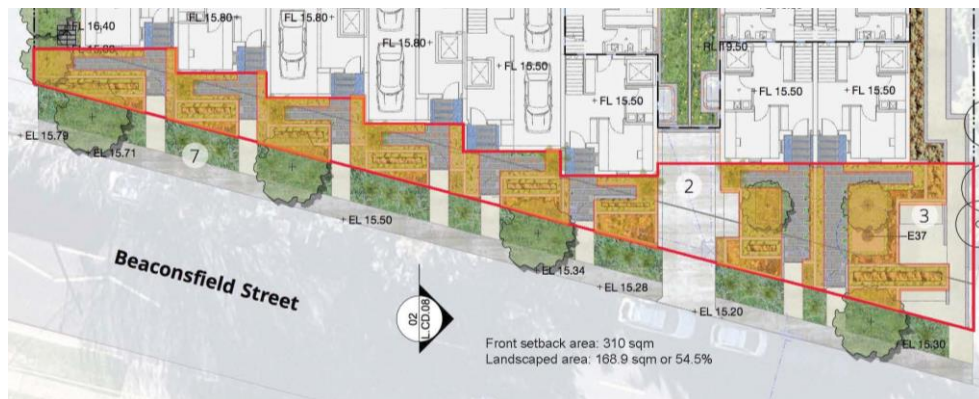
*Newport's coastal setting is what contributes most to the distinctive character of the commercial centre. Responsive, energy efficient buildings will support and enhance this relaxed, beachfront character and its outdoor lifestyle, contributing to a unique sense of place. Contemporary design solutions 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.*

- 8.1.5. The proposal is considered to be consistent with the desired character of the locality as it comprises medium density housing adjacent to a commercial area with good access to public transport and is zoned for this purpose. The site has access to all necessary infrastructure (water, sewer, transport, etc). The development retains existing tree canopy and this will be supplemented with proposed plantings. The buildings are sited within this canopy and are finished in dark and earthy tones to harmonise with the environment. Access through the area is maintained. The buildings have been designed to have excellent energy efficiency including passive solar access, natural cross ventilation, and solar electricity generation.

## **8.2. Clause C1.1 – Landscaping**

- 8.2.1. The proposal includes a landscape plan prepared by Scape Design that incorporates local species and canopy trees. Front setbacks are entirely landscaped other than vehicular and pedestrian accessways and the garbage bin collection area. The landscaped area has been designed to be suitable for children's play.
- 8.2.2. The area of the front setbacks that is landscaped exceeds 50%, as shown in the following diagrams:





### 8.3. Clause C1.2 – Safety and security

8.3.1. The proposal is consistent with Crime Prevention Through Environmental Design (CPTED) principles:

#### 8.3.2. Surveillance

- Front doors face the street and enable residents to view visitors before opening the door.
- Casual surveillance of public areas is provided from rooms and windows overlooking the street and the communal open space.
- Lighting will be provided to suit the development.

#### 8.3.3. Access control

- Entries are capable of being locked.
- Building entrances are clearly visible from the street and will be appropriately lit.
- Street numbers will be provided (details at CC stage).
- Pedestrian access along the street frontage is not impeded.

#### 8.3.4. Territorial reinforcement

- The design of the building and landscaping delineates site boundaries and directs visitors away from private areas.
- There are no blank walls to public places.

#### 8.3.5. Space management

- Communal spaces are well designed.

- Communal spaces are designed to permit effective management over the life of the development.

#### **8.4. Clause C1.3 – View sharing**

- 8.4.1. A review of the site and surrounding area has not identified any significant views that will be impacted by the proposal. It is the experience of the author of this Statement of Environmental Effects that view impacts may be identified by individual land owners during the public notification period of any development application and, if such impacts are identified, it would be appropriate to undertake an assessment of those impacts at that time using the 4-step process outlined by the Land and Environment Court's planning principle (*Tenacity Consulting v Warringah Council* [2004] NSWLEC 140).

#### **8.5. Clause C1.4 – Solar access**

- 8.5.1. Shadow diagrams have been prepared and form part of the development proposal (Drawings DA050 – DA052 prepared by Nettleton Tribe Architects). These diagrams demonstrate that each dwelling within the development and neighbouring the site will receive at least 3 hours of sunlight to their principle living area and main private open space in midwinter. All of the proposed dwellings have north-facing living areas and appurtenant terraces as well as roof terraces and all these spaces receive sunlight throughout the day in midwinter.
- 8.5.2. With regards to neighbouring properties, the internal room configurations are unknown (and not available for privacy reasons). Assuming that internal living areas are oriented towards the rear yard, the shadow diagrams demonstrate that there is no impact on the living areas of the townhouses to the east of the site, 15 Queens Parade. To the south-east of the site there is some shadow cast on the rear (north) elevation of 58 Beaconsfield Street from 1pm onwards in midwinter but no affectation from 9am – 1pm (although there is some overshadowing from 15 Queens Parade at 9am).
- 8.5.3. In terms of solar access to private open space, there is no impact on 15 Queens Parade to the east of the site. Drawing DA051 demonstrates that the rear yard of 58 Beaconsfield Street is already substantially overshadowed by the neighbouring development at 15 Queens Parade and by existing side and rear boundary fences in midwinter. There is additional existing overshadowing from large trees. The proposed development will not significantly alter this situation.

#### **8.6. Clause C1.5 – Visual privacy**

- 8.6.1. The proposal has been carefully designed to ensure that privacy is maintained within the development and for neighbouring residents.
- 8.6.2. The dwellings are oriented towards the street frontage and towards the rear so as not to overlook neighbouring dwellings. No windows are proposed on the

eastern façade of the buildings to ensure that there is no overlooking of the neighbouring dwelling house at 58 Beaconsfield Street or the neighbouring townhouses at 15 Queens Parade.

#### **8.7. Clause C1.6 – Acoustic privacy**

- 8.7.1. The development has been designed to provide excellent acoustic privacy by ensuring that all noise-sensitive rooms (eg: bedrooms, etc) are located away from noise sources such as driveways and parking areas. Walls and ceilings will be provided with sound insulation to comply with the relevant noise transmission ratings in the BCA 2019.
- 8.7.2. Each dwelling will have air-conditioning with the motor located within the rear terrace area. Air conditioning units will comply with all relevant acoustic criteria.

#### **8.8. Clause C1.7 – Private open space**

- 8.8.1. Each dwelling is provided with a generous area of private open space including a terrace adjacent to the main living area and a rooftop terrace. The areas of private open space satisfy the numerical requirements of the P21 DCP, being greater than 2.5m in width and having an area of more than 15% of each dwelling.

#### **8.9. Clause C1.9 – Adaptable housing and accessibility**

- 8.9.1. 50% of the proposed dwellings have been designed as adaptable units, as required by clause C1.9 of P21 DCP.
- 8.9.2. A Disability Access Report has been prepared by Cheung Access, which concludes:

*On the basis of our assessment, the Development Application plans for the 60 Beaconsfield Street Newport development have the capacity to meet:*

- 1. Performance requirements of the Disability (Access to Premises-Buildings) Standards 2010 and Part D3, E3.6, F2.4 of the Building Code of Australia (BCA) 2019 through the deemed to satisfy provisions.*
  - 2. 50% of all dwellings to meet Class C essential AS4299 Adaptable Housing (1995)*
  - 3. 20% of all dwellings must be designed to achieve the Silver Standards of the Liveable Housing Design Guideline (Liveable Housing Australia 2015).*
- 8.9.3. The Disability Access Report also recommends further assessment at Construction Certificate stage to ensure access compliance is achieved. It would be appropriate that this matter be addressed by a condition of consent.



**8.10. Clause C1.10 – Building facades**

8.10.1. Service pipes will not be visible from any public place. This matter may be addressed by an appropriate condition of consent.

8.10.2. Mail boxes are integrated into the design of each individual dwelling, as each dwelling has its own street frontage.

**8.11. Clause C1.12 – Waste and recycling facilities**

8.11.1. The proposal includes a bin storage room and a bulk waste storage room in the basement. Bins will be moved to an open and screened bin storage area adjacent to Beaconsfield Street on bin collection days.

8.11.2. A Waste Management Plan has been prepared and forms part of the development proposal.

**8.12. Clause C1.15 – Storage facilities**

8.12.1. Each dwelling is provided with a lockable storage room adjacent to their garage at basement level. The rooms have an area of greater than 8m<sup>3</sup>.

**8.13. Clause C1.18 – Car wash bay**

8.13.1. A designated car wash bay is provided within the communal basement parking area.

## **9. Pittwater 21 DCP – Newport Locality**

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### **9.1. Clause D10.1 – Character as viewed from a public place**

- 9.1.1. This clause requires that all buildings achieve the desired future character for the locality and that the visual impact of the built form be secondary to landscaping and vegetation. Buildings should not dominate the streetscape and parking structures are to be minimised.
- 9.1.2. The proposal has been carefully designed to minimise impacts on the streetscape. The development is broken up into five discreet buildings, three fronting Queens Parade and two fronting Beaconsfield Street.
- 9.1.3. The western building on Beaconsfield Street comprises six dwellings, where each is stepped and where the front façade is not parallel to the street, ensuring the bulk is broken up and the scale reduced. The eastern building on Beaconsfield Street is set back from the street by up to 9.5 metres and contains only two dwellings to provide a transition to the neighbouring dwelling house, 58 Beaconsfield Street.
- 9.1.4. On Queens Parade the eastern and western buildings comprise two dwelling only, substantially breaking down the scale of the development and providing gaps that enable views into the site to be retained. The gaps between the buildings and within the site enable a landscaped setting to be provided and allow for the retention of existing significant canopy trees on the site.
- 9.1.5. Parking is provided in the basement to minimise impacts on the streetscape. The proposal utilises the existing driveway crossing to Queens Parade and in this way all trees within the road reserve on Queens Parade can be retained. These trees provide a significant contribution to the streetscape and the character of the area.
- 9.1.6. For the above reasons it is considered that the proposal satisfies this element of P21 DCP.

### **9.2. Clause D10.3 – Scenic protection - General**

- 9.2.1. This clause provides that development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.
- 9.2.2. As discussed above, the building has been designed to minimise its impact on the streetscape. The site is generally screened from the waterway and will have little if any impact when viewed from the waterway.
- 9.2.3. The proposal complies with Clause D10.3 – Scenic protection – General.

### **9.3. Clause D10.4 – Building colours and materials**

- 9.3.1. This clause requires building materials which enhance the visual quality and identity of the streetscape and harmonise with the natural environment.
- 9.3.2. The finished surface materials have been chosen to complement the environment. The colours are dark and recessive.
- 9.3.3. The proposal complies with Clause D1.5 – Building Colours Materials and Construction.

#### **9.4. Clause D10.7 – Front building line**

- 9.4.1. The control requires a 6.5m front building setback to both Queens Parade and Beaconsfield Street.
- 9.4.2. In establishing an appropriate front setback for the development of the site consideration has been given to the context relative to existing neighbouring development and to the desirability of providing a greater internal setback area within the site to enable the retention of existing significant canopy trees.
- 9.4.3. On both street frontages the proposal provides front setbacks that provide a transition between the existing developments to the east and west of the site.
- 9.4.4. On Queens Parade, the neighbouring development to the west has a nil front setback. The proposal provides for a minimum front setback of 3.0m for the western portion of the site, graduating up to 4.0m, 5.0m and 6.5m across the site, such that at the eastern of the site a 6.5m front setback is provided that matches that of the neighbouring development.
- 9.4.5. On Beaconsfield Street, the neighbouring development to the west has a nil front setback. The proposal provides a 3.0m separation to that building on its western boundary and a series of stepped dwellings with a minimum front setback of 3.0m to Beaconsfield Street. At its eastern end the development is designed to transition to the single dwelling house scale of neighbouring development, with a building containing only two dwellings providing a front setback of 6.5m to 9.5m.
- 9.4.6. Careful consideration has been given in the landscape design by Scape as to how these front setback areas are treated, paying particular attention to the change in level between the site and the footpath on Beaconsfield Street. Tiered landscaping provides for an improved buffer between the street and the buildings.
- 9.4.7. The design response to the context of the site and the front setbacks that have been adopted ensure that the proposal achieves the Outcomes for development as specified in clause D10.7 of the P21 DCP. In particular, the streetscape is enhanced and the street frontage provide improved pedestrian amenity.

## 9.5. Clause D10.8 – Side and rear building line

- 9.5.1. Clause D10.8 of the P21 DCP requires side boundary setbacks for multi dwelling housing to be provided in accordance with the following formula:

$$S = 3 + [(H - 2) / 4]$$

Where:

S = the distance in metres

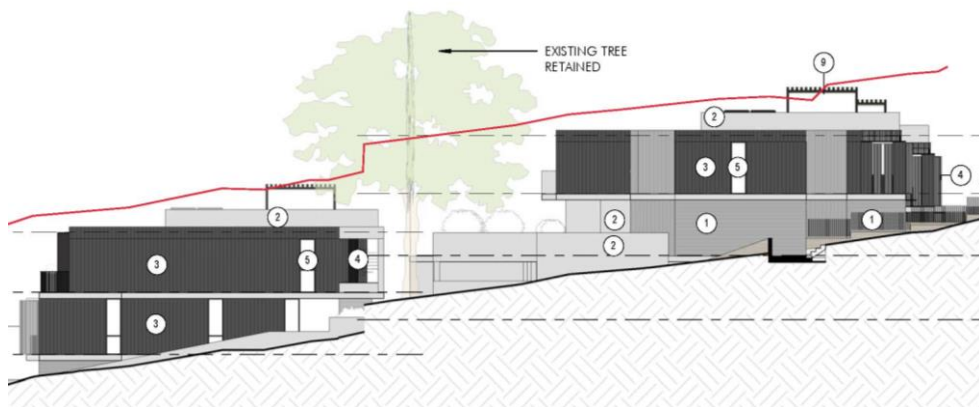
H = the height of the wall at that point measured in metres above existing ground level

- 9.5.2. The proposal provides a side boundary setback to the eastern boundary of 4.1m. The building height varies due to the sloping topography of the site such that the side setback required varies from 3.7 – 4.4m. The building partly complies with the side setback requirement. To the extent that there is a non-compliance, this reflects the design philosophy of maintaining canopy trees within the site and designing around existing vegetation.
- 9.5.3. On the western boundary a side setback of 3.0m is provided. This recognises that the adjoining development is constructed to the boundary and that there are no openings in the wall on the neighbouring development. The 3.0m setback provides a separation between buildings that minimises the bulk and scale of the development. The reduced setback does not compromise privacy or solar access given the nature of neighbouring development and provides sufficient area for significant landscaping to be provided as a vegetated buffer between the commercial and residential zones (noting that the P21 DCP requires that the commercial development be set back 3.0m from the residentially zoned land).
- 9.5.4. The eastern and western façades are broken up with the introduction of bay windows to reduce the impact of the facades and also improve the internal amenity of the proposed dwellings by providing for light and natural ventilation.
- 9.5.5. Notwithstanding the minor non-compliances with the side setback control, the proposal achieves the outcome that is sought by the control:
- ✓ The development achieves the desired future character for the locality as described above.
  - ✓ The bulk and scale of the building is minimised by stepping the building down with the slope of the land, providing dense landscaping, using a variety of finished surface materials and colours, ensuring that parts of the building exceed the side setback requirement, and utilising architectural devices (fenestration, etc) to break down the building facades.
  - ✓ Private views are maintained and public vistas through the site enhanced through the provision of breaks in the building and retention of site vegetation.

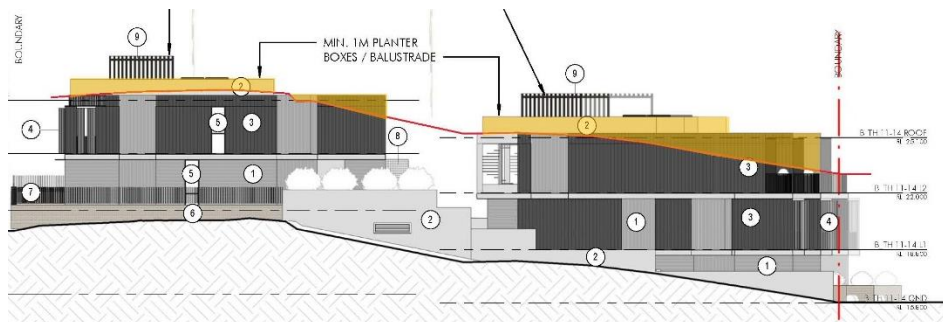
- ✓ Reasonable levels of privacy, amenity and solar access are maintained for neighbouring residents and provided for future residents of the development.
- ✓ Dense landscaping is proposed in accordance with the designs by Scape.
- ✓ A landscaped buffer is provided between the site and the neighbouring commercial development.

## 9.6. Clause D10.11 – Building envelope

- 9.6.1. Clause D10.11 of the P21 DCP requires that buildings be sited within an envelope established at a height of 4.2m on the side boundaries extending into the site at 45°. The eastern façade of the building complies completely with the building envelope control, as shown in the following diagram:



- 9.6.2. The western façade of the site, adjacent to the neighbouring commercial development, does not fully comply with the building envelope control, as shown in the following diagram:



- 9.6.3. The extent of the variation with the building envelope on the western façade is minor and reflects the context of the site, being adjacent to commercial development which is built to the boundary of the site. It also reflects the underlying design intent of the development to retain existing canopy trees and

site vegetation and provide vistas through the site of landscape to enhance the public domain.

9.6.4. The proposal achieves the outcome of the side boundary envelope control:

- ✓ The desired future character is achieved for reasons explained elsewhere in this Statement of Environmental Effects.
- ✓ The streetscape is enhanced and the retention of existing canopy trees reduces the bulk and scale of the proposed buildings and promotes the dominance of landscape over buildings.
- ✓ The building responds sensitively to the natural environment, being designed around existing vegetation and canopy trees.
- ✓ Private views are maintained and public vistas through the site are promoted by providing breaks between the buildings and through the retention of site vegetation complemented by proposed landscaping.
- ✓ Reasonable levels of privacy, amenity and solar access are provided to neighbouring residents and to future residents of the development.

#### **9.7. Clause D10.12 – Landscaped Area – General**

- 9.7.1. This clause requires a minimum landscaped area of 50% of the site area. The proposal complies with this requirement, as shown on the calculation diagrams prepared by Nettleton Tribe Architects (Drawing No. DA075).
- 9.7.2. The proposal achieves the Outcomes of the control, minimising the bulk and scale of the development, enhancing the amenity for future residents, conserving existing tree canopy, and providing soft areas to facilitate the infiltration of water

#### **9.8. Clause D10.14 – Fences – General**

- 9.8.1. The proposal provides front fences and gates to Queens Parade that are 1.2m in height in a palisade style constructed of dark metal. To the Beaconsfield Street frontage it is proposed to have 1.2m high planter boxes constructed of recycled brick and 1.2m high gates of a palisade style constructed of black metal. The fences exceed the control in Clause D10.14 by 200mm in height but are considered appropriate in the context of the site and nearby front boundary fences. The fences will be provided in a landscaped setting and will be attractive and enhance the streetscape. The low height fences ensures that casual surveillance of the street will be provided and enhance the safety and security of the area.
- 9.8.2. The proposal includes side boundary fences that are 1.8m in height, as required by Clause D10.14 of the P21DCP.

**9.9. Clause D10.12 – Landscaped Area – General**

- 9.9.1. This clause requires a minimum landscaped area of 50% of the site area. The proposal complies with this requirement, as shown on the calculation diagrams prepared by Nettleton Tribe Architects (Drawing No. DA075).

## **10. State Environmental Planning Policies**

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### **10.1. SEPP No. 55 - Remediation of land**

10.1.1. Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* (“SEPP 55”) requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

10.1.2. The site has been used for residential and child care purposes for approximately 50 years prior to which it was probably vacant. It is considered unlikely that the site has experienced any contamination, and no further assessment is considered necessary.

### **10.2. SEPP 65 – Design Quality of Residential Apartment Development**

10.2.1. Clause 4(1) of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (“SEPP 65”) provides:

#### **4 Application of Policy**

(1) *This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component....*

10.2.2. The proposal is for a *multi dwelling housing* development as defined in PLEP 2014, and therefore does not comprise a type of development to which SEPP 65 applies. Consequently, SEPP 65 (and the Apartment Design Guide) are not matters for consideration with this development proposal.

### **10.3. SEPP (Building Sustainability Index) 2004**

10.3.1. The proposal is for “BASIX affected development” for the purposes of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (“SEPP (BASIX)”).

10.3.2. Under clauses 8 and 9 of SEPP BASIX, other planning instruments and DCP’s do not apply to BASIX commitments.

10.3.3. A BASIX Certificate has been provided demonstrating that the proposal satisfies the State Government’s energy and water conservation policies.

### **10.4. SEPP (Coastal Management) 2018**

10.4.1. The site is not located within the Coastal Environment and the Coastal Use Areas as identified in SEPP (Coastal Management) 2018 and no further consideration of this State Policy is required.



## **10.5. SEPP (Infrastructure) 2007**

10.5.1. Clause 45 of SEPP Infrastructure requires the Consent Authority to notify the electricity supply authority of any development application (or an application for modification of consent) for any development proposal:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- that includes installation of a swimming pool any part of which is within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

10.5.2. It is anticipated that Council will refer this development proposal to the electricity supply authority in accordance with its usual practice.

## **10.6. SEPP (Vegetation in Non-Rural Areas) 2017**

10.6.1. Under clause 10 of SEPP (Vegetation in Non-Rural Areas) 2017, Council may issue a permit to clear vegetation in any non-rural area of the State. The proposal involves the retention of 30 trees and the removal of 85 trees. The impact of the proposal on existing trees, and the measures proposed to ensure that retained trees are unharmed, is detailed in the Arboricultural Impact Assessment prepared by Footprint Green accompanying the application.

## **11. Other matters under Section 4.15 of the Environmental Planning & Assessment Act 1979**

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### **11.1. The Likely Impacts of the Development**

11.1.1. These have been addressed above.

### **11.2. The Suitability of the Site**

11.2.1. The site is located within the R3 Medium Density Residential zone and has been identified as being suitable for the type of development that is proposed. It has access to all the necessary services and infrastructure.

11.2.2. The site does not have a history of use that would result in land contamination (per SEPP 55).

11.2.3. The site is not subject to environmental hazards that would constrain development such as landslip, flooding or bush fire.

11.2.4. In summary the site is considered to be suitable for the type of development proposed.

### **11.3. Submissions**

11.3.1. None at this time. The proposal will be advertised and notified in accordance with the requirements of the P21 DCP.

### **11.4. The Public Interest**

11.4.1. The public interest is served by developing the land in an efficient and economic way that maintains the character of the area and the amenity of the neighbourhood. The Council's planning controls encourage such development in this locality.

## **12. Summary**

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- 12.1. The merits of this application have been identified in this assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Pittwater LEP 2014 and Pittwater 21 DCP.
- 12.2. The proposed development is responsive to the planning controls and the context of the site. It comprises multi dwelling housing to complement the existing housing stock and provide for a greater choice of housing for the local community.
- 12.3. The design of the proposal minimises impacts on neighbouring views, privacy or solar access. Particular care has been taken to maintain the streetscape and enhance the character of the area whilst enabling the retention of significant canopy trees located on the site.
- 12.4. The proposal represents an economic and efficient use of the land, in accordance with the objectives of the *Environmental Planning and Assessment Act 1979*.
- 12.5. Overall the aims and objectives of Council's development controls are achieved and there is no planning reason why this application should not be approved.

## **Appendix A – Details of the Author**

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### **ACADEMIC QUALIFICATIONS**

Bachelor of Town Planning (Honours), University of New South Wales (1988).  
Master of Professional Accounting (Distinction), University of Southern Queensland (1999).

### **PROFESSIONAL EXPERIENCE**

#### **1997 to present                      SYMONS GOODYER PTY LTD**

Principal town planning consultant responsible for providing expert town planning advice to a diverse range of clients.

Expert witness in the Land and Environment Court.

Statutory and strategic projects within numerous Council areas, including Ashfield, Bankstown, Canterbury, Hornsby, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Mosman, North Sydney, Pittwater, Randwick, Rockdale, Sutherland, Warringah, Waverley, and Woollahra.

#### **1988 to 1997      WARRINGAH COUNCIL**

Manager, Planning and Urban Design Branch (1994-7). Responsible for drafting of operative provisions of the Warringah Local Environmental Plan 2000.

Senior Strategic Planner (1993-1994)

Development Assessment Officer (1988-1993)

#### **1986 to 1988      MARRICKVILLE MUNICIPAL COUNCIL**

Town Planner

#### **1986      EDWARDS MADIGAN TORZILLO BRIGGS INTERNATIONAL PTY LTD**

Town Planner

#### **1984                      RYDE MUNICIPAL COUNCIL**

Student Town Planner

### **PUBLICATIONS**

Goodyer, G (1988)

Retail and office activities in industrial areas in the Sydney region. University of New South Wales.

Goodyer, G (1989)

Hi-tech industry. Planning Law and Practice, UNSW, 1989.

Goodyer, G (1995)

Modern Planning Instruments. Health and Building Surveyors' Association (NSW) Conference, 1995.

## Appendix B Clause 4.6 variation request – building height

Request for exception under clause 4.6 of Pittwater Local Environmental Plan 2014  
to clause 4.3(2) of Pittwater Local Environmental Plan 2014

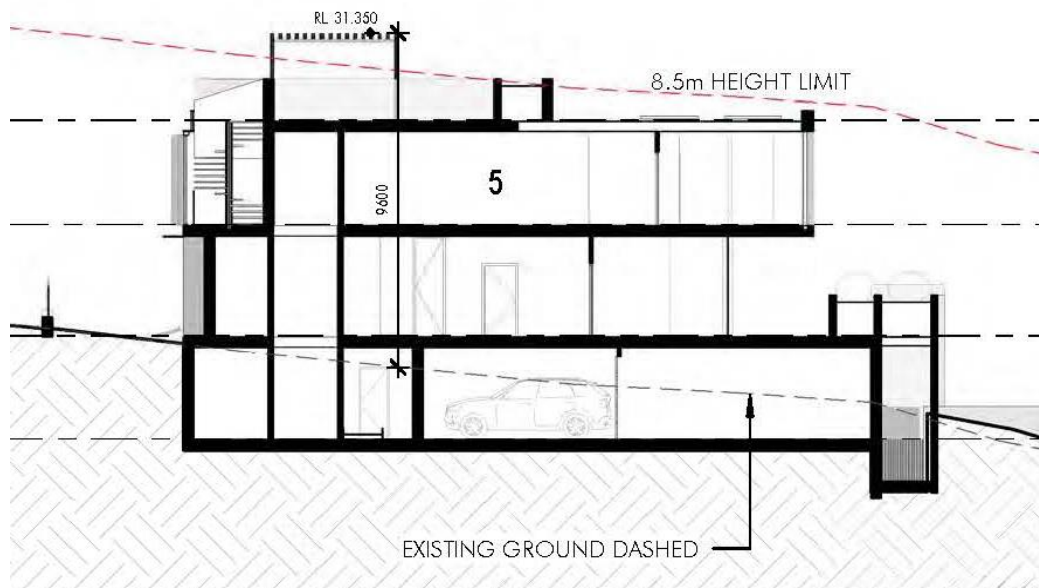
**Premises:** No. 60-62 Beaconsfield Street and 7-13 Queens Parade, Newport

**Proposal:** Demolition of existing structures and construction of a multi dwelling housing development comprising 18 x 3-bedroom dwellings.

**Control:** Building height

Clause 4.3(2) of PLEP 2014 permits a maximum building height of 8.5m.

The proposal generally complies with this control. However, the proposal incorporates sun control structures over the proposed roof terraces and some of these structures breach the control by up to 1.1m (as shown on drawing DA055), representing a variation of 12.9%. These structures also provide solar electricity generation for the proposed dwellings.



Extract from drawing DA055 showing the maximum extent of the breach of the building height control.

### Introduction:

Clause 4.6(1) of PLEP 2014 states:

(1) The objectives of this clause are as follows:

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

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

To utilise the flexibility provided by clause 4.6 of PLEP 2014 it is necessary for the applicant to demonstrate:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In addition, Council must be satisfied that:

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

In exercising delegation from the Director-General of the Department of Planning, Council must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

This clause 4.6 request has been structured in accordance with the approach adopted by the Court in *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46 and also considers the ways in which a SEPP 1 objection can be sustained as listed in *Webhe v Pittwater Council* [2007] NSWLEC 827 at [26]. Consideration has also been given to demonstrating that there are sufficient environmental planning grounds to justify contravening the standard as discussed in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and to the guidance provided in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

**1. Is the planning control in question a development standard?**

Clause 4.3 of PLEP 2013 is attached as Appendix B1.

The definition of “development standards” in Section 4(1) of the Environmental Planning and Assessment Act 1979 is attached as Appendix B2.

Clause 4.3(2) is a development standard as it fixes a requirement for the height of a building.

**2. What is the underlying object or purpose of the standard?**

The underlying objects of the standard are stated in clause 4.3(1) to be:

- (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.*

**3. Is compliance with the development standard consistent with the objectives of clause 4.6?**

- Compliance would necessitate an inflexible application of the development standard in circumstances where the development otherwise satisfies the objectives of the control.

**4. Does non-compliance with the development standard raises any matter of significance for State or regional environmental planning?**

No.

**5. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

Compliance with the development standard is unreasonable and unnecessary for the following reasons:

**5(a). Achievement of the underlying objectives of the standard**

- (a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
  - The proposal has a height and scale that reflects the controls that apply. The area is characterised by a variety of housing types and the proposal contributes to this variety. The consistency with the desired future character of the Newport locality is discussed in detail in the Statement of Environmental Effects.
- (b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
  - The site is located in an area with a mix of surrounding development including dwelling houses, apartment buildings and commercial

development. The proposal has been designed to sit comfortably within this context. Particular care has been taken to ensure that the development provides appropriate transitions to neighbouring developments in terms of setbacks and scale.

(c) *to minimise any overshadowing of neighbouring properties,*

- The proposal has been designed to minimise overshadowing of neighbouring properties. All neighbouring properties retain sunlight to their living areas for in excess of 3 hours in midwinter as required by P21 DCP. The proposal has minimal impact on solar access to neighbouring private open space, noting that the rear yard of 58 Beaconsfield Street is currently overshadowed for most of its area in midwinter by existing structures and large trees.

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

- The site analysis has not identified any significant views currently enjoyed by neighbouring and nearby residents that will be affected by the proposal.

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

- The development steps down the slope of the land from Queens Parade to Beaconsfield Street and also along the street frontages to reflect the natural topography of the land.

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

- The development has been designed around existing canopy trees on the site with generous internal areas retained. The recommendations of the consulting arborist have been incorporated into the design and can be enforced by condition through the construction phase. Proposed landscaping will enhance the natural environment. The site does not contain a heritage item and is not within a heritage conservation area.

**5(b). Is the standard relevant to this development?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**5(c). Would the underlying objective be defeated or thwarted if compliance was required?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**5(d). Has the development standard been abandoned or destroyed by Council's own actions?**



The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**5(e). Is the zoning of the particular land unreasonable or inappropriate?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**6. Are there sufficient environmental planning grounds to justify varying the development standard?**

Yes. The variation to the control is to enable the installation of roofing over the principal private open spaces (roof terraces) of the proposed dwellings which will provide two significant benefits.

Firstly, it will improve the amenity of the roof terraces for the future residents of the building by providing a sense of enclosure and weather protection. This will enhance the usability of the roof terraces and ensure that they achieve the objectives of Council's controls for private open space.

Secondly, the roofing structures will enable the installation of solar electricity generating panels that will enhance the environmental sustainability credentials of the development.

When considering that the proposed roofing structures will not have negative impacts in terms of privacy, views or solar access for neighbouring and nearby properties, the benefits listed above provide sufficient environmental planning grounds to justify varying the development standard.

**7. Are there any other matters to consider before agreeing to the exception?**

Yes. Senior Commissioner Moore in *Chidiac v Mosman Council* [2015] NSWLEC 1044 drew attention to the requirement in clause 4.6(b)(ii) of MLEP 2011 (which is the same as clause 4.6(b)(ii) of PLEP 2014) and that it is necessary to demonstrate that the proposal will satisfy the objectives for the site coverage control and for the R3 Medium Density Residential zone to demonstrate that the requirement that the proposal be in the public interest has been met.

In this regard, the objectives for the R3 Medium Density Residential zone are:

- *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.*

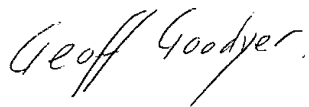
The proposal is consistent with these objectives for the following reasons:

- ✓ It provides for the housing needs of the community within a medium density environment.
- ✓ It enhances the variety of housing types and densities in the area.

[Note: The other zone objective is not relevant to this proposal.]

**8. Is the exception request well founded?**

For the reasons given above the exception request is considered to be well founded.



Geoff Goodyer  
14 November 2019

## Appendix B1

### Clause 4.3 of PLEP 2014

#### 4.3 Height of buildings

- (1) The 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.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
  - (2A) Despite subclause (2), development on land -
    - (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and
    - (b) that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map,may exceed a height of 8.5 metres, but not be more than 8.0 metres above the flood planning level.
  - (2B) Despite subclause (2), development on land—
    - (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and
    - (b) that has a maximum building height of 11 metres shown for that land on the Height of Buildings Map,may exceed a height of 11 metres, but not be more than 10.5 metres above the flood planning level.
  - (2C) Despite subclause (2), development on an area of land shown in Column 1 of the table to this subclause and identified as such on the Height of Buildings Map, may exceed

the maximum building height shown on the Height of Buildings Map for that land, if the height of the development is not greater than the height shown opposite that area in Column 2.

Column 1	Column 2
Area	Maximum height above the flood planning level
Area 1	11.5 metres
Area 2	8.5 metres on the street frontage and 10.5 metres at the rear
Area 3	8.5 metres
Area 4	7.0 metres

- (2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if—
- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and
  - (b) the objectives of this clause are achieved, and
  - (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and
  - (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.
- (2E) Despite subclause (2), development for the purposes of shop top housing on land identified as “Area 5” on the Height of Buildings Map may have a height of up to 10 metres if the top floor of the building is setback a minimum of 6 metres from the boundary to the primary street frontage.
- (2F) Despite subclause (2), development on land identified as “Area 6” on the Height of Buildings Map must not exceed 8.5 metres within the area that is 12.5 metres measured from the boundary of any property fronting Orchard Street, Macpherson Street, Warriewood Road or Garden Street.
- (2FA) Despite subclause (2), the maximum height for a secondary dwelling or a rural worker’s dwelling in Zone E4 Environmental Living or Zone RU2 Rural Landscape is 5.5 metres if the secondary dwelling or rural worker’s dwelling is separate from the principal dwelling.
- (2FB) Despite subclause (2), in the case of a dual occupancy (detached), the maximum height for the dwelling that is furthest back from the primary street frontage of the lot is 5.5 metres.
- (2G) In this clause—

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk management plan.

floodplain risk management plan has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.



## Appendix B2

### Definition of “development standards”

***development standards*** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.