

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/2181
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 1 DP 208183, 69 Melwood Avenue FORESTVILLE NSW 2087
Proposed Development:	Demolition works and construction of a seniors housing development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Melwood Avenue Pty Ltd
Applicant:	Chanine Design Pty. Limited
Application Lodged:	03/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	11/01/2023 to 25/01/2023
Advertised:	11/01/2023
Submissions Received:	5
Clause 4.6 Variation:	SEPP Housing: Clause 108(2) Floor space ratio: 19.6% Clause 85(1) Schedule 4, Clause 17 'Access to kitchen, main bedroom, bathroom and toilet' of <i>State Environmental Planning Policy (Housing) 2021</i> .
Recommendation:	Deferred Commencement Approval
Estimated Cost of Works:	\$ 3,886,925.00

EXECUTIVE SUMMARY

Development consent is sought for demolition works and construction of a seniors housing development comprising of seven (7) attached dwellings. The provisions of *State Environmental Planning Policy (Housing) 2021 (SEPP (Housing)) 2021* and *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65)* are applicable to this application.

The application is referred to the Northern Beaches Local Planning Panel (**NBLPP**) due to the development breaching the Floor Space Ratio by more than 10% (a 19.6% variation to the SEPP provisions are proposed) and a subsequent variation to the non-numerical development standard that

requires '*Access to kitchen, main bedroom, bathroom and toilet*' on the entry level for each dwelling. that is required by the SEPP.

In support of this, a written Clause 4.6 request for the non-compliance with the Floor Space Ratio standard under SEPP (Housing) 2021 has been submitted which argues that the bulk and scale of the development is consistent with that of the surrounding area when viewed from the public domain. The amount of floor space is considered to be consistent with the objectives of the control, noting the articulation proposed under this application is greater than what would be typically required for a single dwelling house.

A further written Clause 4.6 request has been made due to the development not complying with the non-numerical development standard which requires each dwelling to have '*Access to kitchen, main bedroom, bathroom and toilet*' at dwelling entry level. The breach is considered minor and due to the private lobby for non-compliant apartment (apartment U301) being located a level below the rest of the apartment.

During the notification period, five (5) objections were received in response to the proposal, concern raised included bulk and scale, suitability of site, landscaped open space, solar access, privacy, traffic, fencing, excavation and construction impacts and built form non-compliance. A detailed assessment has been conducted and the matters raised in the submissions have been addressed in detail, and no matters were found to warrant the refusal of the subject application.

This report concludes with a recommendation that the NBLPP should grant **approval** to the application, subject to a **deferred commencement** condition relating to stormwater management.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for demolition works and construction of a 7 dwelling (independent living units) seniors housing development, pursuant to SEPP (Housing) 2021.

The works incorporate the following:

- Demolition of an existing structures; and
- Construction of a four-storey seniors housing development comprising of:
 - i 4 x self-contained three-bedroom dwellings
 - i 3 x self-contained two-bedroom dwellings
 - i Basement parking for 13 vehicles
 - i Storage at level 1
 - i Driveway; and
 - i Supporting waste storage, stormwater and landscaping works.

AMENDED PLANS

Following a preliminary assessment of the application Council wrote to the applicant on 16 March 2023 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to built form non-compliance have regard to SEPP Housing, bulk and scale, privacy, waste and water management and the Design and Sustainability Advisory Panel comments . The applicant lodged amended plans and additional information to address concerns on 17 April 2023. Additional amended plans were lodged with Council further reducing the bulk and scale of the proposed development on 18 July 2023, a updated written clause 4.6 (FSR) request and BASIX certificate were also lodged to accompany the design changes as well.

The amended plans incorporated the following changes:

- Reduction in bulk and scale ensuring a compliant side and rear boundary envelope
- Window alterations
- Deletion of voids; and
- Internal alterations

The proposed amendments will have a reduced environmental impact on the adjoining properties and public open space than the original proposal. The amended plans result in a significantly reduced size development. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - D10 Building Colours and Materials

SITE DESCRIPTION

Property Description:	Lot 1 DP 208183 , 69 Melwood Avenue FORESTVILLE NSW 2087
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<p>Detailed Site Description:</p>	<p>The subject site consists of one allotment located on the eastern side of Melwood Avenue, Forestville.</p> <p>The site is regular in shape with a frontage of 27.43m along Melwood Avenue and a depth of 51.815m. The site has a surveyed area of 1416m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two storey brick dwelling with attached garage and several garden sheds.</p> <p>The site slopes down towards the eastern rear boundary.</p> <p>The site has large trees in both the front and rear yard. There are no known threatened species on the site.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u> Adjoining and surrounding development is characterised by one to two storey residential dwellings of varying architectural styles. To the west of the site is the Forestville playing fields.</p>
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Map:



SITE HISTORY

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

DA2021/0316 - Subdivision of one lot into two new lots. (Approved 29 June 2021)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to bulk and scale and insufficient information.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/01/2023 to 25/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Timothy Maxwell Arrowsmith Ms Catherine Mary Edwards	67 Melwood Avenue FORESTVILLE NSW 2087
Ms Patricia Mary Vulcani	11 Bellbird Crescent FORESTVILLE NSW 2087
Mr Zhipei Yang	71 Melwood Avenue FORESTVILLE NSW 2087
Andrew John Berry	59 Melwood Avenue FORESTVILLE NSW 2087
Mr Christopher Guy Barnes	14 Tora Place FORESTVILLE NSW 2087

The following issues were raised in the submissions:

- **Out of character with the area**
- **Overdevelopment of the site**
- **Landscaped Open Space non-compliance**
- **Materials and finishes**
- **Solar Access**
- **Privacy**
- **Noise and air pollution**
- **Traffic congestion**
- **Bin storage**
- **Fencing**
- **Impact of Excavation and construction impacts**
- **Management of site**

The above issues are addressed as follows:

- **Out of character with the area**

The submissions raised concerns to the suitability of a seniors within the Forestville area and R2 Low Density Residential Zone generally.

Comment:

Seniors Housing is a permissible use in a R2 Low Density Residential Zone, pursuant to SEPP (Housing) 2021. The bulk and scale of the proposal as discussed within this report has been designed to ensure the built form is consistent with the character of the locality.

- **Overdevelopment of the site**

The submissions raised concerns that proposal is an overdevelopment of the site, noting the variation to the FSR non-discretionary development standard

Comment:

An assessment against the requirements of Clause 4.6 of the LEP is detailed later in this assessment report, including the applicant's planning grounds to warrant departure from the development standard. For the reasons detailed later in this report, the assessment has found there to be sufficient planning grounds.

- **Landscaped Open Space non-compliance**

The submissions raised concerns with the level of landscaping proposed on site.

Comment:

The application achieves the minimum requirement for landscaped open space on site under SEPP (Housing) 2021 and SEPP 65. Both planning instruments prevail over the 40% requirement of the WDCP, and cannot be refused on this basis.

- **Materials and finishes**

The submissions raised concerns about the proposed materials and finishes proposed.

Comment:

Part D9 (Building Bulk) of the WDCP 2011 encourages the use of colours, materials and treatments to reduce building bulk. The DSAP panel in reviewing the application raised no concern with the proposed materials and finishes proposed.

- **Solar Access**

Concerns have been raised in relation to the potential overshadowing created by the proposed development.

Comment:

The proposed development will be excavated into the natural landform and the site has a east-west orientation. The revised shadow diagrams detail the shadowing impacts upon No. 71 Melwood Avenue, Forestville. A detailed assessment has been undertaken against the solar access provisions within this report. In summary, the development does not unreasonably overshadow adjoining properties living room windows and private open space of adjoining units. The proposal complies with the requisite provisions of SEPP (Housing) 2021 and SEPP 65.

- **Privacy**

Concern was raised by neighbouring properties in regards to the potential overlooking between the subject site and adjoining properties.

Comment:

The proposal has been assessed against the privacy provisions of Part D8 Privacy of the WDCP 2011. In summary, conditions have been imposed to reduce the impact of the north and south facing windows. The proposed windows and remaining balconies proposed allow for reasonable levels of privacy between properties, subject to conditions.

- **Noise**

Concern is raised in regards to the noise impact associated with the density of the seniors housing

Comment:

The application was supported by an Acoustic Report which confirms that the use of the communal spaces can be managed to avoid adverse impacts to adjoining properties. The amended proposal has reduced the level of outdoor living spaces. Given the scale of the neighbouring properties to the north, east and south, the acoustic impact of the development is not deemed to be unreasonable or out of character with the locality.

- **Traffic congestion**

Concern is raised in regards to traffic and potential dangers in regards to pedestrian safety as a result of the proposed use of the subject site.

Comment:

A traffic report was lodged as part of this application and reviewed by Council Traffic and Development Engineers. In summary, the proposed development is consistent with the underlying requirements of Part C2 Traffic, Access and Safety as well as numeric requirements of C3 Parking Facilities of the WDCP 2011. This issue does not warrant the refusal of the application.

- **Bin storage**

The submissions raised concerns with the proposed location of the bin storage area.

Comment:

The bin storage and collection area has been designed in consultation with Council's Waste Services Team, who are satisfied with the location of the bin holding area. Landscape planting is proposed to the east and south of the bin holding area to screen from view for the adjoining property, noting bins will only be stored here for collection day and returned to the basement outside of collection day.

- **Fencing**

The submissions raised concern about the boundary fence proposed along the northern, southern and eastern side of the development.

Comment:

Boundary fences are generally subject to the *Dividing Fences Act* 1991 NSW. As stated Act boundary fences are a civil matter between neighbours and is subject to an agreement between neighbours. No owners consent has been given by the adjoining property owner and as such, no consent is given for any boundary wall/fence. A condition of consent has been imposed as part of the recommendation reflecting this.

- **Impact of Excavation and Construction impacts**

Concern was raised in regards to the extent of excavation works and impacts on adjoining properties.

Comment:

The applicant has provided geotechnical report prepared by a suitably qualified engineer to address geotechnical risks and describe construction methodologies to ensure risk is managed to an appropriate level. This report and the recommendations within it will need to be complied with as a condition of consent.

- **Management of site**

The submissions raised concerns that there was no plan of management submitted for the development.

Comment:

The proposed development is for independent living units. A plan of management is not required for this residential proposal.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>Supported (Subject to Specific Recommendations)</p> <p>The application was presented to the DSAP on 2 February 2023. The Panel recommended significant changes to the proposal:</p> <p>"General</p> <p><i>The site is zoned R2 Low Density Residential under the Warringah LEP 2011. The application is made pursuant to the provisions of State Environmental Planning Policy (Housing) 2021.</i></p> <p><i>The application seeks consent for demolition works and the construction of a four-storey seniors housing development containing 7 self-contained units. The development consists of one building and includes: 5 x 3 bedroom units; 2 x 2-bedroom units; 13 on-site parking spaces (12 resident, 1 visitor)</i></p> <p><i>Adjoining and surrounding development is characterised by one to two storey residential dwellings of varying architectural styles. To the west of the site is the Forestville playing fields.</i></p> <p>Strategic context, urban context: surrounding area character <i>The proposal is a substantial increase in building bulk and density compared to the neighbours. Finding ways to mitigate the bulk and scale is important. This could be done with greater side setbacks, a more slender built form and through the use of landscaping to soften the façade as well as reduce visibility from neighbouring sites. The apartments could be more efficiently designed to reduce the size of the building and incorporate more northern aspect to some of the apartments.</i></p> <p>Recommendation</p> <p><i>1. Reduce the overall building bulk and place the building in a landscaped setting to create a development that is more compatible with the existing context</i></p> <p>Scale, built form and articulation</p>

The building largely complies with the required building envelope for 3 storey buildings. These parts of the building are 3m – 3.7m from the side boundaries at ground level and 5.95m to 6.07m at 2 storey height (U101). These are acceptable side setbacks. However, there are no side setback controls for the 2 storey high parts of the building, where Units 202 and 203 are 1.72m and 4.435m from the side boundaries at the closest points. The 1.72m setback along the northern boundary should be a minimum of 2.5metres, so that a 5m separation between built forms would be created if the 2.5m setback were repeated in the future redevelopment of the adjoining site.

The proposal could be made more slender in plan by reducing gaps between parts of the building and undercroft areas of open air at the entry and inefficient interior planning. The Panel does not support the FSR 0.64:1 (909sqm, an excess of 198.3sqm more than the GFA for 0.5:1 FSR of 710.7sqm) on this site.

The building is set back further from the road than the neighbouring properties and will overlook adjoining rear yards. As noted, this is the result of the planning and can be avoided. The amenity of the open-air entry at ground level is questionable and will be addressed separately.

The panel strongly supports the proposed articulation of the build but notes that this should not be at the cost of efficient internal planning or result in an excessive building volume.

A more rational, compact plan could be achieved based on the following:

Ground Level

Storage Space - inefficient planning renders storage units small at the expense of extravagant circulation space. Corridor area should be reduced and allocated to storage.

G01/G02 - unit entries are remote from living areas leading to circuitous, inefficient corridors to bedrooms. Location of stair and lift creates inefficiency and relocation should be considered.

Level 2

U201 - Circuitous dog-leg entry would be enhanced if the front door led direct to Living Area reducing corridor space which could then be utilised more discrete laundry or reduction of unit footprint.

U202 - excessive corridors and bedroom areas absorb some 70% of apartment, could be reduced resulting in an increased northern boundary setback. Entry would be better located adjacent to living area with reduced circulation in bedroom wing.

U203 - separation of dining room from kitchen and living room is not desirable. Once again, location of lift and service riser creates

awkward entry location.

Level 3

U301 should be rationalised as it is 139 sqm. (including lift stair lobby) plus a 74 sq.m. balcony which is not accessible from any of the bedrooms. Attention should be given to providing direct access to the living areas as a mezzanine above the entry with bedrooms at the northern end may be a more compact.

Recommendations

2. *Given the unnecessary impacts on neighbouring properties floor space in excess of 0.5:1 is not supported and internal planning should be rationalised with more of the floor area and floor places towards the street*
3. *A comprehensive re-design is required*
4. *Consideration could be given to reducing the voids on the ground level entry and reducing the depth of the entry lobby*

Access, vehicular movement and car parking

The Panel understands that the traffic and car parking has not yet been assessed. The Panel has no comment other than to say that the side entry and location towards the front of the site is supported.

Landscape

Landscape Area delivers 54% site landscape area as opposed to min. 30%. Likewise deep soil is at 29% vs the required min. of 15% which are good outcomes.

*Landscape plan is considered and provides good screening and amenity. The number of large endemic canopy species could be increased as only one *Angophora costata* is evident.*

Recommendation

5. *Increase endemic canopy species to at least 3 trees with adequate room and soil volume to achieve full growth potential*

Recommendation

6. *Increase endemic canopy species to at least 3 trees with adequate room and soil volume to achieve full growth potential*

Amenity

The Panel strongly supports the overall strategy of orienting windows

to the east and west and having a stepped, highly articulated side façades. This approach could be extended to bedrooms 2 and 3 in U101 to avoid overlooking.

The front entry has gaps between the buildings and would generally be supported, however these gaps are narrow and set back deeply from the building face above.

The entry way near the mail boxes is set in approximately 6 m from the south façade of the building face above creating an undesirable undercroft space.

The gap between U201 and U202 is narrow and the entry to U201 is awkward (would it not be preferable to have bathroom opening to the gap between buildings and then being naturally lit and ventilated, as could the ensuite in U202. This also applies to ensuite in U203).

There are many other improvements that could be made to the amenity and efficiency of the designs without losing the character that is aimed for.

It should be possible on a development of this scale to achieve good solar access to all dwellings.

Recommendations

6. In any re-design, aim to maximise natural light and ventilation to bathrooms

7. Aim to achieve good solar access for all dwellings

Façade treatment/Aesthetics

The Panel considers the aesthetics appropriate but suggests that the top level; facing the street have more modulation. This could be achieved by providing shading to the western facing window to the dining and kitchen areas of U301 that is shown as unshared in the current scheme.

Recommendations

8. Further articulate the upper level facing Melwood Avenue

Sustainability Recommendations

Decarbonisation of energy supply

9. All services should be electric – gas for cooking, hot water and heating should be avoided. Heat pump hot water and Induction cooktops instead of gas

10. *Heat pump systems for apartments or other ways of providing electric hot water should be considered*

11. *The storage of hot water can be considered a de-facto battery if heated by PVs during the day*

12. *Until technologies for the use of hydrogen are developed and introduced, note the risk of gas reticulation becoming a 'stranded asset' and the possibility of additional costs to remove gas and rewire the building*

13. *The Department of Planning advises that dwellings with electric heat pump hot water systems, efficient reverse cycle air conditioners and induction cooktops can achieve the higher BASIX standard. Accordingly, the Panel recommends that to contribute to design excellence in sustainability, these appliances and fittings be utilised as a sustainability commitment to avoid the use of high emission energy sources such as gas.*

14. *Guidance is also provided by the Australian Green Building Council <https://gbca-web.s3.amazonaws.com/media/documents/a-practical-guide-to-electrification.pdf>*

Onsite power generation and storage

15. *Unshaded roof space is a valuable resource*

16. *Using PV to provide shade to roof top common areas will generally be supported by the Panel if there are no additional adverse impacts*

17. *PVs over green roofs perform better due to the local lower ambient air temperature*

18. *On site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid*

EV charging

19. *Provide EV charging points for each unit*

20. *Allow for bi-directional (2-way) charging of EV battery for powering the building*

Passive design and thermal performance of building fabric

The Panel notes that higher energy standards are under

consideration by the Department of Planning in the document 'BASIX Higher Standards- Proposed changes for feedback'.

Available here

<https://pp.planningportal.nsw.gov.au/draftplans/under-consideration/basix-higher-standards>.

22. *The Department advises that the higher BASIX thermal performance standards will be at least average 7 stars based on NatHERS rating system. This consistent with what the Federal Government proposes for the National Construction Code for 2022.*

23. *Reconsider the apartment layouts to include more northern windows in the apartments*

24. *Maximise natural ventilation of bathrooms*

Water management

25. *Consider increasing the size of the rainwater tank to at least 10,000L and increase the area of roof that drains to it*

26. *Consider connecting the rainwater tank to toilets as well and it may remove the need for washing machines or 6L showerheads*

PANEL CONCLUSION

The Panel does not support the proposal in its current form. A complete redesign and substantial reduction in the floor area is required.

Rationalisation of the internal planning and reconsideration of some of the voids in the entry should allow the building bulk to be reduced and concentrated more to the west.

The Panel does not support more than FSR 0.5:1 in the current scheme"

Planner Comments: The DSAP comments were incorporated into the issues letter sent out to the applicant on 16 March 2023. The proposed amended plans have incorporated the majority of the recommendations into the amended plans lodged with Council. The amended plans still propose a variation to the FSR (0.5:1), however despite the variation the amended proposal is deemed to be satisfactory.

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to conditions</p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>Supported, subject to conditions</p> <p>The proposal is supported with regard to landscape issues.</p> <p>The application is assessed by Landscape Referral against SEPP (Housing) 2021, Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation <p>An Arboricultural Impact Assessment (AIA) and Landscape Plan is included in the application and will be assessed as part of the Landscape Referral. The Arborist assessed 6 trees, of which trees 1 and 4 are located outside the property boundaries and as such must be retained and protected. Of the remaining four trees three are proposed to be removed, trees 3, 5 and 6. Trees 5 and 6 are exempt by species and as such do not require consent for removal. Should the development application be approved, tree 3 can be supported for removal due to its low retention value and the significant replacement native tree planting proposed on the landscape plans. Tree 2 will be retained, which is supported. It is noted the Arborist's advice regarding the stormwater infrastructure adjacent to trees 1 and 2 has been adopted. As recommended in the AIA, a Project Arborist shall be engaged to supervise works.</p> <p>The existing street tree is proposed to be removed (which has been heavily lopped) and replaced with a more suitable species for under power lines, which is supported subject to the imposed conditions.</p> <p>The landscape proposal is generally supported; however, there are discrepancies between the Planting Schedule and what is shown on the plans which will require coordination before issuing a Construction Certificate. Canopy trees to be included in the proposal, as shown on drawings 2 of 10, and 3 of 10:</p> <ul style="list-style-type: none"> - Rear setback; <ul style="list-style-type: none"> i 1 x <i>Angophora costata</i>, 1 x <i>Banksia integrifolia</i>, and 1 x <i>Acmena smithii</i>, - Front setback; <ul style="list-style-type: none"> i 3 x <i>Melaleuca quinquenervia</i>.

	<p>Furthermore, the additional P.O.S terrace for U201 in the front setback, as shown on Landscape Plan 3 of 10, shall be removed and this area mass planted. All <i>Rhaphiolepis indica</i> shall be substituted with a suitable alternative as Council deems this species an environmental threat. All on slab landscaping shall meet Council's minimum soil depth requirements.</p>
NECC (Development Engineering)	<p>Supported, subject to conditions</p> <p>The stormwater management plans have been updated with the submission of a Drains model which is acceptable. The design engineer has also demonstrated that there are no net increases in stormwater flows and will not impact downstream properties in Bellbird Cres. No objections to the proposed development subject to conditions.</p>
NECC (Water Management)	<p>Supported, subject to conditions</p> <p>Proponent supplied amended stormwater plans addressing previous issues including rainwater tank location and size.</p> <p>The application is supported with conditions.</p>
Traffic Engineer	<p>Supported, subject to conditions</p> <p>The development is a Seniors Housing development at 69 Melwood Avenue, Forestville comprised of 7 units (5 x 3 bed and 2 x 2 bed) with off-street parking for 13 vehicles including 1 visitor parking space and 2 accessible parking spaces.</p> <p><u>Parking</u></p> <p>Parking rates for seniors housing developments are derived from SEPP Housing clause 108 which has a non-discretionary requirement that at least 0.5 parking spaces are provided per bedroom. As this development includes 19 bedrooms no less than 9.5 (10) parking spaces are required. Although not a SEPP Housing requirements the Warringah DCP also requires visitor parking at a rate of 1 space for each 5 units i.e. 1.4 (2) spaces. The developer is proposing 13 parking spaces including 1 visitor parking which exceeds the SEPP requirements and is considered acceptable.</p> <p>Schedule 4 of SEPP Housing requires that 10% of the parking spaces or at least one space be able to be widened to 3.8m. In response to this requirement the applicant has provided 2 accessible parking spaces which is acceptable.</p> <p>There is no SEPP Housing requirement for motorcycle or bicycle parking and none has been provided. It is however noted that each unit has a large storage area within which bicycles could be stored if required by the residents.</p> <p>All parking spaces are adequately sized in terms of the requirements</p>

of AS/NZS 2890.1 and can be accessed in and out by a B85 vehicle

Access to Public Transport

SEPP Housing Clause 93 requires that seniors housing developments be located within 400m of transport services accessible by a suitable pathway for travel both to and from necessary facilities and services. Two loop bus services (routes 273 & 278) operate through Forestville and Killarney Heights linking to the Sydney CBD and Chatswood. Bus stops for these services are located on the west side of Melwood Avenue within 200m of the development. A footpath is present on the west side of Melwood Avenue at a flat or near flat gradient however the SEPP requires that the path of travel be suitable for travel by an electric wheelchair, motorised cart or the like. In order to allow a safe and adequate level of access to and from the nearest bus stop (near Lanford Avenue) it will be necessary to a) construct pram ramps on either side of Melwood Avenue in front of the development with a footpath connect from the developments pedestrian access point to the pram ramp b) remove the existing length of layback gutter crossing along the western side of Melwood Ave opposite Nos. 71 to 75 Melwood Ave and replace it with kerb and gutter and reconstruct the footpath through this length of Melwood Avenue at a width of no less than 1.5m. The applicant will be requested to design and construct the above as conditions of consent.

Property Access

The development will be accessed by a driveway which is 5.5m in width at the property boundary and for the first 6m inside the property which is sufficient to allow for passing of vehicles at the boundary. The driveway narrows to 3m from this point and does not allow for passing at any other point and, as the driveway slopes steeply into the basement carpark on a tight bend, vehicle to vehicle encounters on the driveway ramps have a high likelihood of occurring. This potential has been counteracted by the proposed use of convex mirrors at the top and bottom of the ramp to provide inter-visibility to approaching traffic. As the development is estimated to generate peak hour traffic volumes of 3 vehicles per hour with these movements likely to be predominantly outbound in the morning and inbound in the evening the use of mirrors rather than traffic signal control is considered acceptable.

The gradients on the driveway and carpark ramps are compliant with those outlined in AS/NZS 2890.1

Traffic Generation

Using rates from the Updated Traffic Surveys commissioned by Transport for NSW in 2013 (TDT 2013/04a) for Seniors Housing developments it is estimated that the development will generate 3 vehicle trips/hour in peak periods. As the existing development on the site would also generate some peak period traffic the increase in traffic arising from the development will be insignificant and unlikely to

	<p>impact on surrounding road network conditions.</p> <p><u>Summary</u></p> <p>There are no traffic engineering concerns with approval of the development subject to conditions.</p> <p>Supported, subject to conditions Waste Management Assessment - Amended Plans (submitted 19/4/2023)</p>
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, subject to conditions</p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

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

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a four storey seniors 'housing' development plus basement car parking for the provisions of 7 self-contained dwellings.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report, submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

DESIGN REVIEW PANEL

Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

Development located within the residential zone and the area is predominantly characterised by detached dwelling houses. The proposed building, a four storey seniors housing, appropriately responds to, and fits comfortably within, this context. The design of the building will enhance the qualities of the area and is reflective of a modern seniors housing development which is a high quality design.

The development satisfies this Principle.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignment, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

The proposed building achieves a scale, bulk and height that is appropriate to the existing and desired future character of the street and surrounding buildings.

The development satisfies this Principle.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The design of the building affords future residents a high level of amenity. The resultant density is therefore appropriate to the site and its context given its proximity to public transport and ease of access to community facilities and the surrounding environment.

The development satisfies this Principle.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and livability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The design of the building allows for adequate natural cross ventilation and sunlight for the amenity and liveability of future residents and provides passive thermal design for ventilation, heating and cooling which will reduce the reliance on technology and operation costs.

The application is supported by a Waste Management Plan which includes suitable details for the disposal and recycling of demolition and excavation materials should the application be approved.

In addition, a BASIX certificate has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

The development satisfies this Principle.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The landscaping is sufficient to contribute to the landscape character of the streetscape. Council's Landscape Officer has reviewed the landscape design and is satisfied with its viability, subject to the recommended condition of consent.

The development satisfies this Principle.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The design of the building provides sufficient amenity for future residents and residents in neighbouring properties. A sufficient level of sunlight, natural ventilation, views, privacy and private open space is afforded to future dwelling occupants and maintained for occupants of surrounding residential properties. Further, as detailed below, the development satisfies the Apartment Design Guidelines that relate to internal and external amenity.

The development satisfies this Principle.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The development provides for clearly defined well lit entrances to the building. The proposal will also allow for good passive surveillance of the streetscape. The proposal is consistent with this principle.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The proposal provides for a good mix of apartment sizes and adaptability. The development will allow for social interaction while entering and exiting the building.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The development provides a good balance of materials colours and textures that reflects the internal layout and structure. The building is aesthetically well-designed.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the ‘Apartment Design Guide’ as required by SEPP 65.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	Compliant The proposed building is centralised and on site and articulated away from the southern boundary to mitigate solar access and massing impacts on the adjoining property.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Compliant

Public Domain Interface	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Compliant</p> <p>The proposal provides well defined well lit entrances that provide a good transition from the public domain.</p>												
Communal and Public Open Space	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>Non-compliant</p> <p>See comments below</p>												
Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="432 981 1054 1525"> <thead> <tr> <th data-bbox="432 981 643 1099">Site area</th> <th data-bbox="643 981 847 1099">Minimum dimensions</th> <th data-bbox="847 981 1054 1099">Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td data-bbox="432 1099 643 1178">Less than 650m²</td> <td data-bbox="643 1099 847 1178">-</td> <td data-bbox="847 1099 1054 1525" rowspan="4">7%</td> </tr> <tr> <td data-bbox="432 1178 643 1256">650m² – 1,500m²</td> <td data-bbox="643 1178 847 1256">3m</td> </tr> <tr> <td data-bbox="432 1256 643 1335">Greater than 1,500m²</td> <td data-bbox="643 1256 847 1335">6m</td> </tr> <tr> <td data-bbox="432 1335 643 1525">Greater than 1,500m² with significant existing tree cover</td> <td data-bbox="643 1335 847 1525">6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>Compliant</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													

<p>Visual Privacy</p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="435 383 1054 741"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p><i>Note: Separation distances between buildings on the same site should combine required building separation depending on the type of rooms.</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Non-compliant See comments below</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p>Pedestrian Access and entries</p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Compliant The pedestrian entries are easily identifiable and accessible from the public domain</p>												
<p>Vehicle Access</p>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Compliant The vehicle access is located to minimise conflicts and incorporated into the design maintain a high quality streetscape.</p>												

Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> - On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or - On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Compliant</p> <p>The application is compliant with the minimum parking requirements under SEPP (Housing) 2021.</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> - Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. - A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	<p>Compliant</p> <p>Compliant</p>
Natural Ventilation	<p>The number of apartments with natural cross</p>	<p>Compliant</p>

ventilation is maximised to create a comfortable indoor environment for residents by:

- At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.

Compliant

Ceiling Heights

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

Minimum ceiling height	
Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use

Compliant

Ground
Habitable - 2.9m

Level 1
Habitable - 2.9m

Level 2
Habitable - 2.9m

Level 3
Habitable - 2.7m

Apartment Size and Layout

Apartments are required to have the following minimum internal areas:

Apartment type	Minimum internal area
Studio	35m ²
1 bedroom	50m ²
2 bedroom	70m ²
3 bedroom	90m ²

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Compliant

2 bedroom minimum - 106sqm
3 bedroom minimum - 111sqm

<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>Compliant</p>															
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p>	<p>Compliant</p>															
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Compliant</p>															
<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p>	<p>Non-compliant The proposed master bedrooms in all units fails to comply with this control. It is noted however, that the proposed bedrooms comply with the minimum spatial requirements for cross ventilation and are capable of accommodating a queen size bed and clear area of the bed of at least 1.2m, in line with the requirements of SEPP (Housing) 2021.</p>															
<p>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</p>	<p>Compliant</p>															
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments 	<p>N/A</p>															
<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>N/A</p>															
<p>Private Open Space and Balconies</p>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="434 1724 1054 1984"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m
Dwelling Type	Minimum Area	Minimum Depth														
Studio apartments	4m ²	-														
1 bedroom apartments	8m ²	2m														
2 bedroom apartments	10m ²	2m														
3+ bedroom apartments	12m ²	2.4m														

	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Compliant										
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Compliant 7 apartments across 4 levels.										
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A										
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="437 797 1059 1128"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Non-compliant Each apartment has at least 40sqm of storage area, however, 50% of the minimum requirement for storage has not been provided in within the individual apartments. Despite this, the proposed storage areas within the basement are accessible by lift that is accessible via centralised within the building. The proposed storage arrangement is not unreasonable, particularly given the generous size.
Dwelling Type	Storage size volume											
Studio apartments	4m ²											
1 bedroom apartments	6m ²											
2 bedroom apartments	8m ²											
3+ bedroom apartments	10m ²											
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Compliant										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Compliant										
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Compliant 4 x three bedroom 3 x two bedroom The application proposes a reasonable mix of apartments dwellings on the site.										
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Compliant										

Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Compliant																																			
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Compliant The roof design is adequate for the locality and incorporates skylights.																																			
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Compliant, subject to conditions																																			
Planting on Structures	<p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="416 952 1082 1899"> <thead> <tr> <th data-bbox="416 952 536 1032">Plant type</th> <th data-bbox="536 952 683 1032">Definition</th> <th data-bbox="683 952 799 1032">Soil Volume</th> <th data-bbox="799 952 935 1032">Soil Depth</th> <th data-bbox="935 952 1082 1032">Soil Area</th> </tr> </thead> <tbody> <tr> <td data-bbox="416 1032 536 1252">Large Trees</td> <td data-bbox="536 1032 683 1252">12-18m high, up to 16m crown spread at maturity</td> <td data-bbox="683 1032 799 1252">150m³</td> <td data-bbox="799 1032 935 1252">1,200mm</td> <td data-bbox="935 1032 1082 1252">10m x 10m or equivalent</td> </tr> <tr> <td data-bbox="416 1252 536 1471">Medium Trees</td> <td data-bbox="536 1252 683 1471">8-12m high, up to 8m crown spread at maturity</td> <td data-bbox="683 1252 799 1471">35m³</td> <td data-bbox="799 1252 935 1471">1,000mm</td> <td data-bbox="935 1252 1082 1471">6m x 6m or equivalent</td> </tr> <tr> <td data-bbox="416 1471 536 1691">Small trees</td> <td data-bbox="536 1471 683 1691">6-8m high, up to 4m crown spread at maturity</td> <td data-bbox="683 1471 799 1691">9m³</td> <td data-bbox="799 1471 935 1691">800mm</td> <td data-bbox="935 1471 1082 1691">3.5m x 3.5m or equivalent</td> </tr> <tr> <td data-bbox="416 1691 536 1771">Shrubs</td> <td data-bbox="536 1691 683 1771"></td> <td data-bbox="683 1691 799 1771"></td> <td data-bbox="799 1691 935 1771">500-600mm</td> <td data-bbox="935 1691 1082 1771"></td> </tr> <tr> <td data-bbox="416 1771 536 1852">Ground Cover</td> <td data-bbox="536 1771 683 1852"></td> <td data-bbox="683 1771 799 1852"></td> <td data-bbox="799 1771 935 1852">300-450mm</td> <td data-bbox="935 1771 1082 1852"></td> </tr> <tr> <td data-bbox="416 1852 536 1899">Turf</td> <td data-bbox="536 1852 683 1899"></td> <td data-bbox="683 1852 799 1899"></td> <td data-bbox="799 1852 935 1899">200mm</td> <td data-bbox="935 1852 1082 1899"></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		Compliant, subject to conditions
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Shrubs			500-600mm																																		
Ground Cover			300-450mm																																		
Turf			200mm																																		
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	Compliant																																			

Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	N/A
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	N/A
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Compliant
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Compliant
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Compliant The proposed bin storage area proposed to the front of the site will allow for safe collection
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Compliant

- **Communal open space (3D-1, 3D-2 and 3D-3)**
The proposed development does not provide any areas of communal open space, and as such, is inconsistent with the design criteria of Objective 3D-1 of the ADG that requires an area of communal open space of at least 25% of the area of the site. With no communal open space, the proposal is also inconsistent with the second design criteria of this Objective, which requires good solar access to 50% of the communal open space in midwinter. The absence of an areas of communal open space is justified in this instance as all units comprise areas of private open space of high amenity, that exceed the minimum requirements prescribed by Objective 4E-1 of the ADG. Furthermore, the site is advantageously located in close proximity to Melwood Oval with ample space for outdoor recreation.
- **Visual privacy (3F-1)**
Objective 3F-1 of the ADG that prescribes a 6m minimum setback between habitable rooms/balconies and side boundaries. With R2 zoned land to both sides of the subject site, and a minimum width of 27.43m, the 6m minimum side setback prescribed by this objective if imposed would essentially sterilize the site, with the developable area of the subject site is significantly diminished. The proposed development incorporates varied setbacks to respond to

the circumstances of the site. The lesser setbacks, 3.07m - 3.73m at Ground Level are not perceived from the public domain. As the development protrudes above ground, the setbacks increase to 6.8m at Level 1, 8.2m at level 2 exceed the 3m and 6m minimum requirement of SEPP 65, and provide sufficient spatial separation to the adjoining properties in light of the height and density proposed. The setbacks also allow for increased landscaping along the side boundaries to reduce the visual impact of development and minimise impacts upon the adjoining dwellings. The Level 3 setback is reduced to 5m to the northern side of the development, however, the apparent size of the development as seen from the public domain is not unreasonable.

Objective 3F-1 aims to ensure that adequate separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. Subject to conditions of consent (as discussed within this report under Part D8 (Privacy) of the WDCP 20111), the proposed development will ensure that reasonable levels of privacy are achieved between properties. The proposal is not overly reliant upon the adjoining sites to achieve the necessary separation.

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Comment:

The application is not recommended for refusal on the above matters.

(2) *Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:*

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

Comment:

The assessment above has found that the proposed development is generally consistent with the the

design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1357899M_02 dated 25 July 2023).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	35	35

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

SEPP (Housing) 2021

Part 5 – Housing for seniors and people with a disability

Division 3 Development Standards

Clause 84 – Development Standards (General)	
Standard	Compliance/Comment
2) Development consent must not be granted for the development unless:	
a) The site area of the development is at least 1,000m ² .	Compliant The site area is 1421m ²
b) The frontage of the site area of the development is at least 20m measured at the building line.	Compliant The site frontage is 27.41m

<p>c) For development on land in a residential zone where residential flat buildings are not permitted - the development will not result in a building:</p> <ul style="list-style-type: none"> i) with a height of more than ii) 9.5m, excluding servicing equipment on the roof of the building, and iii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. 	<p>Complaint The proposed building height is 9.4m, which is compliant with the control.</p> <p>The proposed development has been amended to ensure the third and fourth storey comply with the envelope control.</p>
<p>3) The servicing equipment must:</p>	
<p>a) be fully integrated into the design of the roof or contained and suitably screened from view from public places.</p>	<p>Compliant The plans do not detail any rooftop servicing equipment.</p>
<p>b) be limited to an area of no more than 20% of the surface area of the roof.</p>	<p>N/A</p>
<p>c) not result in the building having a height of more than 11.5m.</p>	<p>N/A</p>

<p>Clause 85 – Development Standards for Hostels and Independent Living (Self-Care) Units</p>	
<p>Standard</p>	
<p>1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the following under Schedule 4.</p>	
<p>2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4 (being Sections 2, 7 - 13 and 15 – 20) if the development application is made by, or by a person jointly with, a social housing provider.</p>	

An assessment against Schedule 4 has been completed in the following tables:

<p>Part 1 - Standards applying to hostels and independent living units</p>	
<p>Section 2 - Siting Standards</p>	
<p>1) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.</p>	<p>N/A</p>

<p>2) If the whole of the site does not have a gradient of less than 1:10:</p> <ul style="list-style-type: none"> a) the percentage of dwellings that must have wheelchair access must equal the b) proportion of the site that has a gradient of less than 1:10, or 50% (whichever is greater), and the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway accessible to all residents. 	<p>Compliant</p> <p>The whole of the site adjoins a public road and wheelchair access via a continuous accessible path of travel is provided to all dwellings and communal living areas on all levels by way of lift, as confirmed by the Access Report.</p>
<p>3) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>	<p>Compliant</p> <p>As above</p>
<p>Section 3 - Security</p>	
<p>Pathway lighting:</p> <ul style="list-style-type: none"> a) must be designed and located so as to b) avoid glare for pedestrians and adjacent dwellings, and must provide at least 20 lux at ground level. 	<p>Compliant, through Condition</p>
<p>Section 4 - Letterboxes</p>	
<p>Letterboxes:</p> <ul style="list-style-type: none"> a) must be situated on a hard standing area and have appropriate wheelchair access b) by a continuous accessible path of travel, c) (within the meaning of AS 1428.1); and must be lockable, and must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry. 	<p>Compliant, through Condition</p>
<p>Section 5 - Private Car Accommodation</p>	

<p>If car parking (not being car parking for employees) is provided:</p> <ul style="list-style-type: none"> a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date. 	<p>Compliant</p>
<p>Section 6 - Accessible Entry</p>	
<p>Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.</p>	<p>Compliant, through Condition</p>
<p>Section 7 - Interior - General</p>	
<p>Internal doorways must have a minimum clear opening that complies with AS 1428.1.</p>	<p>Compliant, through Condition</p>
<p>Internal corridors must have a minimum unobstructed width of 1m.</p>	<p>Compliant, through Condition</p>
<p>Circulation space at approaches to internal doorways must comply with AS 1428.1.</p>	<p>Compliant, through Condition</p>
<p>Section 8 - Bedroom</p>	
<p>At least 1 bedroom within each dwelling must have:</p> <ul style="list-style-type: none"> a) an area sufficient to accommodate a wardrobe and a bed sized as follows: <ul style="list-style-type: none"> i) for a dwelling in a hostel - a single-size bed, ii) for an independent living unit - a queen-size bed, and 	<p>Compliant, through Condition</p>

- b) a clear area for the bed of at least:
 - i) 1.2m wide at the foot of the bed,
 - ii) and
1m wide beside the bed between it and the wall, wardrobe or another obstruction, and
- c) 2 double general power outlets on the wall where the head of the bed is likely to be, and
- d) at least 1 general power outlet on the wall opposite the wall where the head of the bed is likely to be, and
- e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and
- f) wiring to allow a potential illumination level of at least 300 lux.

Section 9 - Bathroom

- 1) At least 1 bathroom within a hostel or independent living unit must be on the ground or main floor and have the following facilities arranged within an area that provides for circulation space for a wheelchair around sanitary facilities in accordance with AS 1428.1:
- a) a slip-resistant floor surface,
 - b) a washbasin with plumbing that
 - c) would facilitate clearances that comply with AS 1428.1, a shower that complies with AS 1428.1, except that the following must be able to be accommodated:
 - i) a grab rail,
 - ii) a portable shower
 - iii) head,
a folding seat,

Note: Sub-section (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.
 - d) a wall cabinet sufficiently
 - e) illuminated to be able to read the labels of items stored in it, a double general power outlet beside the mirror.

Compliant, through Condition

Section 10 - Toilet	
A dwelling must have at least 1 toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	Compliant, through Condition
Section 11 - Surface Finishes	
Balconies and external paved areas must have slip-resistant surfaces.	Compliant, through Condition
Section 12 - Door Hardware	
Door handles and hardware for all doors, (including entry doors and other external doors), must be provided in accordance with AS 4299.	Compliant, through Condition
Section 13 - Ancillary Items	
Switches and power points must be provided in accordance with AS 4299.	Compliant, through Condition

Part 2 - Additional Standards for Independent Living Units	
Section 15 - Living Room and Dining Room	
1) A living room must have: <ul style="list-style-type: none"> a) a circulation space in accordance with b) clause 4.7.1 of AS 4299, and a telephone adjacent to a general power outlet. 	Compliant, through Condition
2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.	Compliant, through Condition
Section 17 - Access to kitchen, Main Bedroom, Bathroom and Toilet	
In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Non-compliant See clause 4.6
Section 18 - Lifts in Multi-Storey Buildings	
In a multi-storey building containing separate independent living units on different storeys, lift access must be provided to dwellings above ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.	Compliant
Section 19 - Laundry	

<p>An independent living unit must have a laundry that has:</p> <ul style="list-style-type: none"> a) a circulation space at door approaches b) that complies with AS 1428.1, and c) provision for the installation of an d) automatic washing machine and a e) clothes dryer, and <p>a clear space in front of appliances of at least 1,300mm, and</p> <p>a slip-resistant floor surface, and an accessible path of travel to any clothesline provided in relation to the dwelling.</p>	<p>Compliant, through Condition</p>
<p>Section 20 - Storage for Linen</p>	
<p>Linen storage must be provided in accordance with clause 4.11.5 of AS 4299.</p>	<p>Compliant, through Condition</p>
<p>Section 21 - Garbage</p>	
<p>A garbage storage area must be provided in an accessible location.</p>	<p>Compliant</p>

<p>Clause 88 – Restrictions on Occupation of Seniors Housing</p>	
<p>Standard</p>	<p>Compliance/Comment</p>
<p>1) Development permitted under this Part may be carried out for the accommodation of only the following:</p>	<p>Compliant The proposed seniors housing development is to only be occupied by seniors, noting that conditions of consent reinforce this.</p>
<p>a) seniors or people who have a disability,</p>	
<p>b) people who live in the same household with seniors or people who have a disability,</p>	
<p>c) staff employed to assist in the administration and provision of services to housing provided under this Part.</p>	
<p>2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in sub-section (1) will occupy accommodation to which the development relates.</p>	<p>As above.</p>

Division 4 – Site-related requirements

Clause 93 – Location and access to facilities and services (independent living units)	
Standard	Compliance/Comment
1) Development consent must not be granted for development for the purposes of an independent living whether residents will have adequate access to facilities and services :	
a) by a transport service that complies with sub-section (2), or	
b) on-site.	
Note: Facilities and services means:	
<ul style="list-style-type: none"> a) shops and other retail and commercial services that residents may reasonably require, and b) community services and recreation facilities, and c) the practice of a general medical practitioner. 	
2) The transport service must:	
a) take the residents to a place that has adequate access to facilities and services, and	<p>Compliant</p> <p>Bus services within close proximity of the subject site service both the CBD and Chatswood a bus stop used by a regular bus service (within the meaning of the Passenger Transport servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both Saturday and Sunday).</p>

<p>b) for development on land within the Greater Sydney region:</p> <ul style="list-style-type: none"> i) not be an ii) on-demand booking service for the transport of passengers for a fare, and be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day. 	<p>The 278 bus route which would serve the subject site, is a transport NSW bus service.</p>
<p>3) For the purposes of sub-sections (1) and (2), access is adequate if:</p>	
<p>a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and</p>	<p>Compliant</p>



b) the distance is accessible by means of a suitable access pathway, and

Footpath access to both bus stops mentioned above.

<p>c) the gradient along the pathway complies with sub-section (4)(c).</p>	<p>The pathway access is generally flat, along a sealed pathway.</p>
<p>4) In sub-section (3):</p>	
<p>a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and</p>	<p>-</p>
<p>b) the distance is to be measured by reference to the length of the pathway, and</p>	<p>-</p>

<p>c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than:</p> <ul style="list-style-type: none"> i) 1:12 for a ii) maximum iii) of 15m at a time, or 1:10 for a maximum length of 5m at a time, or 1:8 for a maximum length of 1.5m at a time. 	-
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Clause 95 – Water and sewer	
Standard	Compliance/Comment
1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will:	
a) be connected to a reticulated water system, and b) have adequate facilities for the removal or disposal of sewage.	Compliant The subject site is serviced by existing water and sewerage infrastructure.
2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority:	
a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.	N/A

Division 5 – Design requirements

Clause 97 – Design of in-fill self-care housing	
Standard	Compliance/Comment
In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	Compliant See comments below under table

Clause 98 – Design of seniors housing	
Standard	Compliance/Comment
A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6 (see table below).	Compliant See comments below under table

Division 6 – Design Principles

Clause 99 – Neighbourhood amenity and streetscape	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation, and	Compliant The subject site is located within the R2 Low Density Residential zone and is adjoined exclusively by detached dwelling houses. The development recognises the desirable elements of the subject sites current character and adopts a design that is consistent in built form with that of detached style housing in the local area.
b) recognise the desirable elements of: <ul style="list-style-type: none"> i) the location's current character, or ii) for precincts undergoing a transition - the future character of the location so new buildings contribute to the quality and identity of the area, 	
c) complement heritage conservation areas and heritage items in the area, and	N/A

<p>d) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <ul style="list-style-type: none"> i) providing building setbacks to reduce ii) bulk and overshadowing, and iii) using building form and siting that relates iv) to the site's land form, and adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and 	<p>Compliant</p> <p>The proposal is compatible with the existing low density built form character of the immediate locality.</p> <p>The proposal incorporates staggered wall planes at each level to reduce the overall bulk and scale of the development on the sloping site.</p> <p>The proposal will also be compatible with the existing and future character of the locality and will contribute towards enhancing the existing streetscape by providing an appropriate front, side and rear building setback that will positively contribute to the cohesiveness and visual appreciation of the streetscape.</p>
<p>e) be designed so the front building on the site is set back generally in line with the existing building line, and</p>	<p>The proposed development is consistent with the prevailing front building line of Melwood Avenue. The building complies with the WDCP 2011 front building setback control.</p>
<p>f) include plants reasonably similar to other plants in the street, and</p>	<p>The areas identified as soft landscaping provide a satisfactory level of landscaping through the provision of trees and shrubs which will assist in softening the appearance of the development when viewed from the street and neighbouring properties.</p>
<p>g) retain, wherever reasonable, significant trees, and</p>	<p>As above.</p>
<p>h) be designed so no building is constructed in a riparian zone.</p>	<p>No building is proposed in a riparian zone.</p>

Clause 100 – Visual and acoustic privacy	
Standard	Compliance/Comment
<p>Development for the purposes of seniors housing should consider the visual and acoustic privacy of adjacent neighbours and residents by:</p>	
<p>a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p>	<p>Compliant</p> <p>Visual privacy to the northern and southern neighbours has been mitigated through sill height</p>

	<p>windows, orientating windows away from adjoining properties and and privacy screening. Conditions have been imposed to ensure the screening is suitable to mitigate sightlines between properties. It is noted that the privacy requirements of the Housing SEPP are different to those of SEPP 65, however given the characteristic of the development, the privacy requirements of the Housing SEPP are better aligned with the proposal.</p> <p>Balconies proposed under this application are orientated away from side boundaries to mitigate potential privacy impacts of private open space.</p>
b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	<p>Compliant The proposed bedrooms are suitably set away from noise sources which in this case in Melwood Avenue</p>

Clause 101 – Solar access and design for climate	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) for development involving the erection of a new building provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and	<p>Compliant The proposed development is compliant with the solar access requirements of both the WDCP 2011 and the SEPP Housing 2021.</p>
b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	<p>Compliant The proposed development provides suitable natural ventilation, heating and lighting. The proposed development is supported by a BASIX Certificate demonstrating these matters.</p>

Clause 102 – Stormwater	
Standard	Compliance/Comment
Development for the purposes of seniors housing should aim to:	
a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	<p>Compliant The proposed development is supported by engineering plans demonstrating suitable stormwater management measures.</p>
b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	<p>Compliant As above</p>

Clause 103 – Crime prevention	
Standard	Compliance/Comment

Development for the purposes of seniors housing should be designed in accordance with environmental design principles relating to crime prevention, provide personal property security for residents and visitors and encourage crime prevention by:	
a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and	Compliant The proposed development will allow for passive surveillance of the street.
b) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and	The communal Lobby to the front of the building will be able to be locked and unlocked.
c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The proposed development is designed in such a way that occupants of the dwellings are able to observe approaching visitors from inside the dwelling, without opening the door.

Clause 104 – Accessibility	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	Compliant
a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	The proposed development provides safe and generally level pedestrian access to nearby public transport services.
b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development provides direct access to the apartments from the proposed basement.

Clause 105 – Waste management	
Standard	Compliance/Comment
Development for the purposes of seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	Compliant A bin storage area is proposed to the front of the site.

Division 7 – Non-Discretionary Development Standards

Clause 106 – Interrelationship of Division with design principles in Division 6	
Standard	Compliance/Comment
Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the development does not demonstrate that adequate regard has been given to the principles set out in Division 6.	Noted.

Clause 108 – Non-discretionary development standards for independent living units	
Standard	Compliance/Comment

2) The following are non-discretionary development standards in relation to development for the purposes of an independent living unit :	
Height	
a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,	Compliant 9.4m
b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m: <ul style="list-style-type: none"> i) is fully integrated into the design of the roof or contained and suitably screened ii) from view from public places, and iii) is limited to an area of no more than 20% of the surface area of the roof, and does not result in the building exceeding a height of 11.5m. 	N/A
Density and Scale (FSR)	
c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.	Non-compliant FSR 0.598:1 (850sqm) , see clause 4.6 request
Landscaped Area	
d) for a development application made by a social housing provider - at least 35m ² of landscaped area per dwelling,	N/A
e) if (d) does not apply - at least 30% of the site area is landscaped,	Compliant The development proposes 30% or 426.3sqm of landscaped open space
f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site.	Compliant
Solar Access	
g) at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.	Compliant 6 units or 85% of dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.
Private Open Space	

<p>h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building:</p> <ul style="list-style-type: none"> i) at least 15m² of private open space per dwelling, and ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor. <p>Note: The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one (see Schedule 4, section 2.)</p>	<p>Compliant All dwellings propose at least 15sqm of private open space.</p> <p>Ground floor dwellings have a minimum dimension of 3m from a living room.</p>
<p>i) for a dwelling in a multi-storey building not located on the ground floor – a balcony accessible from a living area with minimum dimensions of 2m and:</p> <ul style="list-style-type: none"> i) an area of at least 10m², or ii) for a 1 bedroom dwelling - an area of at least 6m². 	<p>All upper storey dwellings have a balcony at least 10sqm.</p>
Car Parking	
<p>j) for a development application made by, or made by a person jointly with, a social housing provider - at least 1 parking space for every 5 dwellings,</p>	<p>N/A</p>
<p>k) if (j) does not apply - at least 0.5 parking space for each bedroom.</p>	<p>Compliant</p>

Comment:

The assessment above has found that the proposed development is generally consistent with the the objectives and requirements of SEPP (Housing) 2021.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.3m - 9.4m	10.5%	N/A Clause 4.3 is overwritten by height control under SEPP (Housing) 2021 being 9.5m.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)

4.6 Exceptions to development standards	Yes
Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor Space Ratio under Clause 108(2)(c) of the <i>State Environmental Planning Policy (Housing) 2021</i>
Requirement:	0.5:1 (710.5sqm)
Proposed:	0.59:1 (841sqm)
Percentage variation to requirement:	19.6%

Assessment of request to vary a development standard:

The following assessment of the variation to the site size development standard under Clause 108(2)(c) of the State Environmental Planning Policy (Housing) 2021 ('the SEPP'), has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the

proper management, development and conservation of the State's natural and other resources,
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
(c) to promote the orderly and economic use and development of land,
(d) to promote the delivery and maintenance of affordable housing,
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
(g) to promote good design and amenity of the built environment,
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

"Objective (c) to promote the orderly and economic use and development of land

For the reasons outlined in this submission, approval of the variation to the FSR standard will promote the orderly and economic use and development of the land and will increase the supply and diversity of residences that meet the needs of seniors or people with a disability.

Strict compliance would require the removal of 139.5m² of floor space from the development in circumstances where the size and geometry of the allotment facilitates the contextually appropriate distribution of the quantum of floor space proposed ensuring that the building, by virtue of its bulk and scale, is consistent with the desired character of the locality in terms of streetscape, building form, landscaping and residential amenity outcomes.

Approval of the FSR variation will achieve objective (c) of the Act.

Objective (g) to promote good design and amenity of the built environment

The building is of exceptional design quality with the variation facilitating a quantum of floor space that provides for contextual built form compatibility, the delivery of housing for seniors and people with a disability and the orderly and economic use and development of the land consistent with objective (g) of the Act."

Planner comment:

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposed development provides a positive contribution to the streetscape while also providing for additional housing within the area.
- The development promotes good design and amenity of the built environment, noting that the development will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.
- The WLEP does not have a floor space ratio control, rather an envelope control. On large sites, a complaint building within the envelope would have a similar FSR, despite the differences in land use.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

Clause 108(2)(c) of the SEPP does not express any objectives. A merit assessment against the objectives of the development standard Clause 4.4 (Floor Space Ratio) under WLEP 2011 is provided below:

(a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure,

Comment:

(b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

Comment:

The proposed building achieves a scale, bulk and height that is appropriate to the existing and desired future character of the street and surrounding buildings. The development allows a medium density development to be suitably sited on a site surrounded by low density development (Dwelling houses). The development provides a built form and scale that is reflective of its location and is contextually appropriate when viewed in the context of other recently constructed developments within the area.

(c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,

Comment:

The overall building bulk and scale has been effectively controlled by way of effective building setbacks to adjoining properties (north, south and east), a high level of building articulation and manipulation of building elements and through the use of appropriate materials and finishes. The proposed gross floor area will not result in unreasonable building bulk or scale and does not result in any unreasonable physical or visual impacts on surrounding lands.

(d) to manage the visual impact of development when viewed from public spaces,

Comment:

The proposed building, albeit a four storey seniors housing development, appropriately responds to, and fits comfortably within, this context. The design of the building will enhance the qualities of the area and is reflective of a seniors housing development which is a high quality design.

(e) to maximise solar access and amenity for public areas.

Comment:

The proposed development is sited away from the southern boundary and ensures that a reasonable level access is maintained to public and private open spaces and adequate sunlight access will continued to be maintained the private open spaces and habitable rooms of adjacent dwellings.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development provides six new dwellings for the purpose of seniors housing. As such, the proposed development provides for the housing needs of the community in the low density locality.

It is considered that the development satisfies this objective.

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

Comment:

The proposed development is for a residential use of the site.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development is suitably supported by landscaping and design in keeping with the character and natural environment of the locality.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed by the Local Planning Panel.

Description of non-compliance:

Development standard:	Clause 85(1) Schedule 4, Clause 17 'Access to kitchen, main bedroom, bathroom and toilet' of State Environmental Planning Policy (Housing) 2021
Requirement:	100% of dwelling to comply
Proposed:	6 out of 7 dwellings comply
Percentage variation to requirement:	14.28%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 85(1) Schedule 4, Clause 17 'Access to kitchen, main bedroom, bathroom and toilet' of SEPP (Housing) 2021 development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental*

planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 85(1) Schedule 4, Clause 17 'Access to kitchen, main bedroom, bathroom and toilet' of SEPP (Housing) 2021 development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

The Applicant's written request has demonstrated that the underlying objective or purpose of the development standard is not relevant to the development with the consequence that compliance is unnecessary, notwithstanding the non-compliance with the development standard.

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the underlying objective or purpose of the development standard is not relevant to the development with the consequence that compliance is unnecessary, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's

written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

"Sufficient environmental planning grounds exist to justify the variation including the fact that the non-compliance could be resolved through relocating the laundry to 1st floor level and removing the lobby door to make it common property rather than private. The entry to Apartment 108 would then be at first floor level with compliance achieved with the standard. This is the same access arrangement proposed for Apartment 101.

In my opinion, whilst strictly compliant with the standard such alternate access arrangement would result in inferior access and amenity outcomes for Apartment 108 in circumstances where the difference between compliance and non-compliance is whether the stair and lift access to the upper-level kitchen, main bedroom, bathroom and toilet within the multi storey independent living unit is private or common. A variation of the standard will promote the good design and amenity of Apartment 108 consistent with objective 1.3(g) of the Environmental Planning and Assessment Act 1979."

Planner Comment:

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes good design and amenity of the built environment, noting that the internal design, which allows for a private lobby at ground floor level will not lead to any

unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties. If the lobby area was to communal for the sake of compliance, there would be no additional benefit for residents of the subject site or adjoining properties.

In this regard, the applicant's written request has demonstrated that the proposed development is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the 'Access to kitchen, main bedroom, bathroom and toilet' development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

Clause 85(1) Schedule 4, Clause 17 of State Environmental Planning Policy (Housing) 2021 does not express any objectives. In this circumstance, the principles of the SEPP are addressed as follows:

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

a) enabling the development of diverse housing types, including purpose-built rental housing,

Comment:

The proposed development allow for a seniors housing development which is generally a medium density housing development within a low density area without unreasonably compromising adjoining properties or the streetscape

b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,

Comment:

The proposed development is exclusively for seniors. Conditions have been imposed to ensure this is maintained for the life of the development.

c) ensuring new housing development provides residents with a reasonable level of amenity,

Comment:

Flexibility if provided in this situation to allow for a reasonable level of amenity for each dwelling.

d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,

Comment:

The proposed development demonstrates efficient use of existing infrastructure and services by way of its location.

Ne) minimising adverse climate and environmental impacts of new housing development,

Comment:

The site is not impacted by any environmental constraints.

f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,

Comment:

As detailed throughout this report, the proposed development does not result in any unreasonable impacts in relation to noise, privacy, solar access, views, or other factors contributing to the amenity of the subject site and adjacent sites. The proposal is a reflective of a larger density of the area which does not impact upon the low density nature of the locality.

g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,

Comment:

N/A. This objective related to the affordable housing part of the SEPP.

d) mitigating the loss of existing affordable rental housing.

Comment:

N/A. This objective related to the affordable housing part of the SEPP.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development retains the residential use of the site.

It is considered that the development satisfies this objective.

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

Comment:

The proposed is for a new multi dwelling seniors housing development. The proposed development will provide for housing for the elderly in a convenient location, being close to retail and other commercial services.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The development is consistent with the desired landscape setting, retaining landscaping to the front and rear of the building.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environment

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and

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

In this regard, before granting development consent for earthworks, Council must consider the following matters:

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

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

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

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

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

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

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

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

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	9.3m	29.1%	No
B3 Side Boundary Envelope	4m	North Outside envelope Length 2.9m Height - 0m - 0.7m	17.5%	No
	4m	South Within envelope	-	Yes
B5 Side Boundary Setbacks	0.9m	North Ground - 3.07m First - 3m - 6.8m Second - 2m - 8.27m Third - 3.03m - 5m	-	Yes
	0.9m	South Ground - 3.7m First - 5m - 6.6m Second - 4.36m - 8.5m Third - 6.7m - 8.8m	-	Yes
B7 Front Boundary Setbacks	6.5m	Basement 3.5m - 4.4m level 2 6.57m - 6.74m level 3 6.74m - 7.83m	46% - -	No
B9 Rear Boundary Setbacks	6m	Ground 6m Level 1 9m Level 2 9m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (568.4sqm)	SEPP (Housing) 2021 controls prevails 30% (426.3sqm)	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1 Landscaped Open Space and Bushland Setting	N/A	N/A
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The control limits the external height of walls to 7.2m above the existing ground level. The proposed maximum wall height for the development is 9.3m above natural ground level, which represents an 29.1% variation from the numeric requirement.

Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The non-conforming wall height is attributable to significant slope of the site. To offset the wall height non-compliance large side and rear setbacks are proposed to reduce the apparent bulk when viewed from neighbouring properties. It is noted that the proposed non-compliant wall height is not one continuous wall plane, but the wall height is measured over the 3 levels which each level has an increased setback to the boundary.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

Trees to the front of the site that have a canopy height exceeding that of the maximum wall height.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The non-compliance will not result in a view impact.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The proposed development does not result in any unreasonable overshadowing, view impacts and privacy impacts have been reasonably mitigated based on spatial separation and landscaping.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The building floor levels are stepped to follow the site topography, resulting in a minor area of non-compliance with wall height.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The building provides a variety of roof forms for visual interest and variation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

Under Clause B3 of Warringah Development Control Plan 2011, buildings must be sited within a building envelope determined by projecting planes at 45 degrees from a height of 4 metres above ground level (existing) at the side boundaries.

The proposal sits outside of the building envelope on the north facade as depicted in image 1. The northern elevations obtains an encroachment of 0m - 0.7m in vertical height for a horizontal length of 2.9 metres, resulting in a maximum variation of 17.5%.



Image 1- North Elevation non-compliance

Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposal is compliant with the maximum height of buildings development standard and side boundary setbacks control. Therefore, the proposal does not become visually dominant by virtue of its height and bulk as the upper floor additions include substantial articulation to mitigate any unreasonable bulk and scale.

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

Comment:

The proposal is accompanied with shadow diagrams that demonstrates adequate solar access and light to the subject site and neighbouring sites. Privacy has been incorporated into the design through the inclusion of privacy screens along the northern and southern balcony edges to mitigate any unreasonable privacy impacts.

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

Comment:

The dwelling is considered to respond to the topography of the site by minimising unreasonable levels of excavation and stepping the design to ensure a sympathetic siting of dwellings.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The Submissions received raised issues in relation to privacy impacts upon the norther and southern adjoining properties. It is considered that this level of spatial separation and eastern orientation of the balconies and windows combined with existing boundary fencing would be sufficient in maintaining adequate levels of privacy within a residential environment, subject to conditions requiring additional screening.

Balconies

The proposed level 3 balcony is setback 5m from the northern property boundary, 8.8m from the southern property boundary and 30.17m from the rear property boundary. The proposed development will not result in the overlooking of more than 50% of the private open space of adjoining dwellings, provides adequate setbacks from either side boundary and is oriented away from neighbouring private open space. No additional privacy measures are recommended in this instance.

The level 1 balcony to the rear of the site is sufficiently setback from the side property boundaries, however given that it is located adjacent to the private open space of the adjoining properties to the north and south (Nos. 67 and 71 Melwood Avenue Forestville) screening along the northern and southern side of the balconies to mitigate potential overlooking between properties. In the case of the level 2 balconies at the rear, the southern balcony provides for a privacy screen along its southern edge. It is considered that a similar level of treatment is necessary along the rear northern unit's balcony along its northern edge. This has been required by condition.

Windows

The Control stipulates that windows of a dwelling are to be located so they do not provide direct or close views (ie. from less than 9m away) into the windows or private open space of other dwellings. The proposed level 2 windows to the living rooms of U203 on the northern and southern elevation (Labelled as W23) would result in a spatial separation of less than 9m between the adjoining dwelling to the south. In this respect, it is considered appropriate to impose a condition of consent requiring this window to be fixed or frosted below 1.6m

It is considered that the other proposed windows within the development have been appropriately designed using high sill windows, offset positioning and screening to ensure the privacy of the adjoining neighbours.

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

Comment:

The proposal, as amended via conditions, will result in an appropriate design suitable for the

locality.

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

Comment:

The proposal is not anticipated to raise any issues with regards to issues with personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The amendments provided to the plans compliance with the maintain compliance with the 9.5m height plane, and have reduced the previous extent of non-compliance on the side boundary envelope pursuant to this objective. The increased upper level setbacks, including changes to balcony areas and reduced building bulk achieve the desired objectives to ensure that the development does not become visually dominant in relation to adjacent dwellings. The proposal will maintain adequate daylight, solar access and privacy to adjacent living areas of neighbouring properties by providing spatial separation between buildings and to ensure that development responds to the topography of the site.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The proposal ensures a compliant landscaped front setback and rear setback areas with landscaping and residential outlook toward the street. The building bulk has been suitably articulated with appropriate driveway and pedestrian entry areas to the streetscape. The site is situated within a low density residential area and is consistent with the built form controls for that zone and does not create any unreasonable visual impact for adjoining dwellings nearby that overlook the site. The proposal satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D10 Building Colours and Materials

Council requires external colours to be predominately medium to dark in tone. Off white and light grey on the external walls is not acceptable due to the visual dominance and reflectivity caused by such colours. These colours are acceptable for the fascia, downpipes, gutters and window trim as these elements are less prominent. As such, a condition of consent is included to limit the colour of the

external walls to be a medium to dark.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$38,869 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,886,925.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 108(2)(c) Floor Space Ratio and Schedule 4 Part 2 (Section 17) 'Access to kitchen, Main Bedroom, Bathroom and toilet' of SEPP (Housing) 2021 has adequately

addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case;
and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

The assessment of this proposal for demolition works and construction of a 7 dwelling seniors housing development, pursuant to SEPP Housing.

The proposal has been amended throughout the assessment process in response to feedback from Council's Planner and DSAP.

On all occasions, the Applicant has appropriately resolved the concerns raised which ultimately has resulted in a building that will provide a high-quality development that has a minimal impact on neighbouring properties; and will enhance the surrounding natural environment.

On balance, it is found that the building will make a positive contribution to the locality.

This report concludes with the recommendation that the NBLPP, as the consent authority, should **APPROVE** the development application.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 108(2)(c) Floor Space Ratio and Schedule 4 Part 2 (Section 17) 'Access to kitchen, Main Bedroom, Bathroom and toilet' of SEPP (Housing) 2021 has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2022/2181 for Demolition works and construction of a seniors housing development on land at Lot 1 DP 208183,69 Melwood Avenue, FORESTVILLE, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

Terms and Reasons for Conditions

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

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by LMW Design group DRW Nos D1 A, D2 B, D3 A, D3 A , D4 C. The easement is to be created under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

2. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1005/ Revision C	13 July 2023	CD Architects
DA1007/ Revision A	September 2022	CD Architects
DA1101/ Revision B	21 March 2023	CD Architects
DA1102/ Revision C	13 July 2023	CD Architects
DA1103/ Revision C	13 July 2023	CD Architects
DA1104/ Revision C	13 July 2023	CD Architects
DA1105/ Revision C	13 July 2023	CD Architects
DA2001/ Revision C	13 July 2023	CD Architects
DA2002/ Revision C	13 July 2023	CD Architects
DA3001/ Revision C	13 July 2023	CD Architects
DA3003/Revision B	13 July 2023	CD Architects
DA7041/ Revision A	13 July 2023	CD Architects
E1/ Revision A	13 July 2023	LMW Design Group

Engineering Plans		
Drawing No.	Dated	Prepared By
D1/ Rev A	1 December 2022	LMW Design Group
D2/ Rev B	23 June 2023	LMW Design Group
D3/ Rev A	1 December 2022	LMW Design Group
D3A/ Rev A	29 May 2023	LMW Design Group
D3B/ Rev A	5 June 2023	LMW Design Group
D4/ Rev C	23 June 2023	LMW Design Group
D5/ Rev A	1 December 2022	LMW Design Group
D6/ Rev A	1 December 2022	LMW Design Group
D7/ Rev A	1 December 2022	LMW Design Group

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Traffic Impact Statement	2 December 2022	PDC Consultants
Geotechnical Investigation Report	16 December 2022	Morrow Consultants
NCC Assessment Report	December 2022	Building Certification Services
Arboricultural Report	9 December 2022	Jacksons Nature Works
Acoustic Report	5 December 2022	Acoustic Noise and vibration Solutions
Statement of Compliance - BCA Access	5 December 2022	Accessible Building Solutions
BASIX Certificate No. 1357899M_02	25 July 2023	Taylor Smith Consulting

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
Dwg. 1 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 2 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 3 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 4 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 5 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 6 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 7 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 8 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 9 of 10/ Issue D	25 July 2023	Paul Scrivener
Dwg. 10 of 10/ Issue D	25 July 2023	Paul Scrivener

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	December 2022	Multipro

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of sites detailed on the approved plans for any land use of the site beyond the definition of a seniors housing, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

seniors housing means a building or place that is—

(c) a group of independent living units, or

Note—

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

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

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

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

information.

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

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

Reason: Legislative requirement.

5. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer

management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

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

 - (i) Swimming Pools Act 1992

- (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$38,869.25 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$3,886,925.00.

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

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

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

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

7. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any

damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

8. **Construction, Excavation and Associated Works Security Bond(s)**

The applicant is to lodge a bond with Council for the following:

Footpath and Kerb and Gutter Bond

A security against is to be lodged with Council for the construction of the 1.5m wide concrete footpath and kerb and gutter within Melwood Avenue frontage and opposite side of the road of \$60000 .

Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$20000.

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

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9. **Amended Landscape Plan**

An amended landscape plan shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- a) coordinate all landscape drawings and populate the Planting Schedule with all proposed species and the quantities required. Quantities shall meet these minimum requirements; shrubs 1 per metre square, grasses and groundcovers 4 per metre square,
- b) canopy tree planting shall be as proposed;
- i) rear setback - 1 x *Angophora costata*, 1 x *Banksia integrifolia*, and 1 x *Acmena smithii*,
- ii) front setback - 3 x *Melaleuca quinquenervia*,
- c) substitute all *Rhaphirolepis indica* with a suitable alternative (although cultivars are proposed, Council deems this species an environmental threat),
- d) the private open space terrace for U201 shown on drawing 3 of 10 shall be removed and this area mass planted.

Certification shall be provided to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

10. **On Slab Landscape Works**

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

The following soil depths are required to support landscaping: 300mm for groundcovers, perennials, grasses; 600mm for shrubs; and 1m for small trees.

Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

11. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

12. **Stormwater Disposal and On site stormwater detention.**

The stormwater drainage system is to be in accordance with the plan prepared by LMW Design Group DRW NOS 2096.2 D1 A, D2 B, D3 A, D3A A, D4 C dated Dec 2022. and Northern Beaches Council's Water Management for Development Policy . Detailed stormwater drainage plans are to be prepared by an appropriately qualified and practicing Civil Engineer with NER or RPENG qualifications in Civil Engineering demonstrating that the existing downstream stormwater system can accommodate the additional flows and compliance with the Council's specification are to be submitted to the Certifier for approval prior to the Principle Certifying Authority issue of the Construction Certificate.

Additionally the stormwater drainage plans shall detail the connection of the basement pump out pit discharge line to the On site stormwater detention tank.

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

13. **Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct vehicle crossing 6m metres wide in accordance with Northern Beaches Council Standard Drawing Normal Low in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

14. **Construction Traffic Management Plan**

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

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

The CTMP must address following:

- i The proposed phases of construction works on the site, and the expected duration of each construction phase
- i The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- i Make provision for all construction materials to be stored on site, at all times
- i The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- i The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- i The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- i Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- i Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- i Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- i The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- i Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- i Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of

the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site

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

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

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

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

15. Submission of Engineering Plans (standard from development engineers).

The applicant is to submit copies of Civil Engineering plans for the design of:

1. pram ramps on either side of Melwood Avenue in front of the development with a footpath connection along the development’s property frontage on the eastern side.
2. removal of the existing length of layback gutter crossing along the western side of Melwood Avenue opposite No.s 71 to 75 Melwood Avenue and its replacement with kerb and gutter together with reconstruction of the footpath through this length of Melwood Avenue at a width of no less than 1.5m

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

Section 138 and/or 139 applications are to be submitted to Council for approval.

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

16. Pedestrian sight distance at property boundary

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

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

Reason: To maintain pedestrian safety.

17. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- i Window W23 is to be frosted glass below 1.6m or be highlight windows with a minimum sill height of 1.6m from the finished floor level.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

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

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Assessment Report prepared by Building Certification Services, dated 22/12/2022, Job No. BJA22055, Rev 1-DA is to be considered, including any Performance Solutions, as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate..

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

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

Access and facilities to and within the building are to be provided for Persons with a Disability in accordance with the Building Code of Australia and AS1428, In this regard the Access Review Report prepared by Accessible Building Solutions, dated 5/12/2022 is to be included as part of the Construction Certificate assessment. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

20. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of:

- 1) A 1.5m wide concrete footpath along the property frontage and extension to the existing vehicle crossings of the adjoining properties
- 2) Reinstatement of the dishdrain/footpath on the opposite side of Melwood Avenue with Kerb and Gutter and footpath with the exception of the existing vehicle access point . (Reconstruction is required opposite 71-75 Melwood Avenue)

The engineering plans are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

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

21. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

22. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

23. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

24. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 2020 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm.>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifier to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

25. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

26. **Privacy Screen**

A 1.65 metres privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern and southern edge of the level 1 balcony located off the living room and bedroom 1 as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that

complement the design of the approved development.

A privacy screen shall be affixed atop the balustrade along the northern edge of the balcony of U202 for its full length. The screen atop the balustrade shall achieve a height of 1.65 metres and be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property.

27. **Sydney Water "Tap In"**

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

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

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

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

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

28. **Requirements for Seniors Housing or Housing for Persons with a Disability**

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Part 5, Division 3 Cl. 85 (Schedule 4) within *State Environmental Planning Policy (Housing) 2021*, with exception of Clause 85(1) Schedule 4, Clause 17 'Access to kitchen, main bedroom, bathroom and toilet'

Details demonstrating compliance with the above requirement are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and equitable access for seniors or people with a disability.

29. **Boundary Fencing**

No consent is given for any boundary fencing.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure compliance with the Dividing Fences Act 1991.

30. **Waste and Recycling Requirements**

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

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a

modification(s) to the development may be required.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

31. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

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

Reason: Tree protection.

32. Tree Removal Within the Property

This consent approves the removal of existing trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

- a) tree 3 - *Callistemon viminalis*,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

33. Tree Removal Within the Road Reserve

This consent approves the removal of existing trees within the road reserve as listed below:

- a) 1 x *Liquidambar* street tree to the front of the property,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

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

Reason: Public liability.

34. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

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

35. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

Nos. 71 and 67 Melwood Avenue, Forestville

No. 11 Bellbird Crescent, Forestville

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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

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

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

36. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

37. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

38. Condition of Trees

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

works. In this regard all protected trees shall not exhibit:

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

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

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

Reason: Protection of trees.

39. Road Reserve

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

Reason: Public safety.

40. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

41. Implementation of Construction Traffic Management Plan

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

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic

Management procedures agreed and are held liable to the conditions of consent.

42. **Ongoing Management**

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

Reason: To ensure public safety.

43. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

44. **Demolition Works - Asbestos**

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

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

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

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

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

45. **Survey Certificate**

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

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

46. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 Roads Act approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

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

47. **Footpath Construction**

The applicant shall construct a 1.5m wide concrete footpath for the full property frontage and link up with the adjoining properties vehicle crossings. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Section 138 Road Act approval
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath. Details demonstrating compliance are to be submitted to the Principal Certifier.

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

48. **Notification of Inspections (infrastructure works to be handed over to Council)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Prior to pouring of kerb and gutter and concrete footpath

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

49. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

50. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/Normal Low and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and

crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Certifier.

Reason: To facilitate suitable vehicular access to private property.

51. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

52. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated December 2022.

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

53. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

54. **Street Tree Planting**

Street tree planting shall be installed in accordance with the following: 3 x *Tristaniopsis laurina* 'Luscious', as shown on the Landscape Plan.

All street trees shall be a minimum pre-ordered planting size of 200 litres, and shall meet the requirements of Natspec - Specifying Trees. All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

Reason: to maintain environmental and streetscape amenity.

55. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings 1 of 10 to 10 of 10 by Paul Scrivener dated 07/12/22), and inclusive of the Amended Landscape Plan conditions, plus the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) all canopy tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees;

planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s),

d) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Prior to the issue of an Occupation Certificate, details from a landscape architect, landscape designer or qualified horticulturalist shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent. Reason: Environmental amenity.

56. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

a) compliance to any Arborist recommendations for tree protection generally and during excavation works,

b) extent of damage sustained by vegetation as a result of the construction works,

c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

57. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with the Construction certificate approved Stormwater management plan and Councils Water Management for Development Policy by the RENG or NER qualified civil design engineer . Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

58. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

59. **Footpath Construction**

The footpath, in accordance to Council's standard specifications, shall be constructed along the property frontage and reconstructed along the western side of Melwood Ave replacing the existing layback gutter crossing opposite No.s 71 to 75 Melwood Avenue in accordance with the plans approved under a Section 138 Roads Act application to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

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

60. **Convex Mirror at Ramps**

Two (2) convex mirrors are to be installed and maintained at the top and bottom of the curved ramp leading from the ground floor to the level 1 basement carpark. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

61. **Post-Construction Dilapidation Report**

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

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

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

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

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

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

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

63. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

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

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

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

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

65. **Post-Construction Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

66. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

Report No. / Page No. / Section No.	Dated	Prepared By
Traffic Impact Statement	2 December 2022	PDC Consultants
Geotechnical Investigation Report	16 December 2022	Morrow Consultants
NCC Assessment Report	December 2022	Building Certification Services
Arboricultural Report	9 December 2022	Jacksons Nature Works
Acoustic Report	5 December 2022	Acoustic Noise and vibration Solutions
Statement of Compliance - BCA Access	5 December 2022	Accessible Building Solutions
BASIX Certificate No. 1357899M	5 December 2022	Taylor Smith Consulting

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

Reason: To ensure compliance with standards.

67. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

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

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

68. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

69. **Sydney Water**

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

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

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

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

70. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies. The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

(a) seniors or people who have a disability;

(b) people who live within the same household with seniors or people who have a disability;

(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under *State Environmental Planning Policy (Housing) 2021*):

Seniors are people aged 60 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue any Interim / Final Occupation Certificate.

Reason: Statutory requirements.

71. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

72. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

73. **Positive Covenant for Council and Contractor Indemnity**

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

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

74. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Principal Certifier, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land.

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

75. **Landscape Maintenance**

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

A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

76. **Maintenance of Stormwater Treatment Measures - Minor**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

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

Reason: Protection of the receiving environment.

77. **Staff and Contractor Parking**

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

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

78. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

79. **Landscaping adjoining vehicular access**

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1m

Reason: To maintain unobstructed sight distance for motorists.

80. **Air-conditioning**

All air-conditioning units (including plant) are to be located internally.

Reason: To maintain reasonable amenity for neighbouring properties owners.

81. **Maintenance of lift U301**

The lift in U301 as shall be maintained in a functioning and serviceable state for the life of the development, by the owner(s) of the dwelling. This requirement shall be registered on the title of that unit or form part of a by-law if the development is strata subdivided. Northern Beaches Council shall be empowered to vary release or modify such restriction or by-law.

Reason: To ensure suitable accessibility is maintained at all times