

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0860
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<b>Responsible Officer:</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 52 DP 881594, 24 Darley Street East MONA VALE NSW 2103
<b>Proposed Development:</b>	Demolition and construction of a Residential Care Facility including basement parking
<b>Zoning:</b>	R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Thompson Health Care Pty Ltd
<b>Applicant:</b>	Thompson Health Care Pty Ltd

<b>Application Lodged:</b>	12/08/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	09/03/2020 to 23/03/2020
<b>Advertised:</b>	31/08/2019
<b>Submissions Received:</b>	8
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 11,949,289.00
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### EXECUTIVE SUMMARY

The proposed development is referred to the Development Determination Panel as it is an application of more than \$1 million and having more than three (3) objections and is not required to go to the Local Planning Panel. The proposal has been assessed as an "Aged Care Facility" (ACF), which is a permissible use pursuant to the *SEPP (Housing for Seniors or People with a Disability) 2004*. The ACF will replace an existing nursing home with a new multi-storey, purpose built modern facility, to increase the supply of aged care for seniors in the area.

The proposed building is considered to be suitable and appropriate development for the site and is in context with the residential scale and intensity of the medium density residential zone. Principal environmental impact considerations are traffic and parking access, relocation of an existing right of way,

privacy, overshadowing, urban character, landscaping, setbacks, views, construction impacts (during works) and stormwater management.

The public submissions received have been considered and addressed within this report and conditions have been applied where appropriate to address those concerns; including, construction impacts (dust, noise, excavation, and the like), privacy, overshadowing, views, traffic safety, parking, access, waste, sub-station relocation, stormwater and property impacts. Suitable conditions are recommended to address engineering, traffic and landscape referral responses. The proposal will not have an adverse impact on the adjacent heritage item at No.22 Darley Street East. Other internal referral considerations from Environmental Health, Waste Services, Building Assessment, Traffic and Development Engineering have been addressed by conditions as provided. No objection to approval of the ACF has been raised by the External Referrals for Ausgrid or NSW Police.

During the assessment period, some design changes were made by the applicant to address issues relating to driveway safety, waste services, building bulk and external appearance. As a result, the proposal was reduced from 51 to 50 rooms in order to improve building articulation and address the urban design assessment, including general amenity, vehicle access, landscaping, privacy, bulk and streetscape.

The requirements of the Pittwater LEP and DCP apply in-so-far as particular considerations that the SEPP does not include those equivalent considerations. In this regard matters relating to desired future character, setbacks, building envelope, bulk and scale, external materials, overshadowing, privacy, views, stormwater and traffic have been addressed. The provisions of SEPP HSPD prevail over the Pittwater LEP and DCP and in this case the non-compliances with the FSR and landscaping controls are standards that *"cannot be used to refuse development consent"*, pursuant to the SEPP, and therefore are addressed in accordance with Clause 48 of the SEPP.

The proposal is considered to satisfy the objectives of the SEPP and Pittwater LEP and is consistent with the Design Principles as well as site related requirements such as building height, carparking, accessibility, support services and infrastructure.

Subject to conditions, no issues have been raised that warrant refusal of the application.

## PROPOSED DEVELOPMENT IN DETAIL

The proposed development application is for demolition work and construction of a Aged Care Facility including ancillary site works. A detailed summary of works is as follows:

- Demolition of a single storey Nursing Home facility;
- Excavation and site preparation and drainage works;
- Relocating a through access driveway (right-of-way) from the eastern boundary to the western boundary to maintain access to the existing carparking access at the rear of No.1 Seabeach Avenue. The new driveway area includes a covered ambulance / vehicle space and a passing bay adjacent the main front entry area. Right-of-way access is also maintained to the existing parking spaces abutting the north-eastern corner of the site that are located on No.1 Seabeach Avenue.
- Construction of a 3 storey Aged Car Facility with basement carpark configured as:

**RL7.30 Basement and Carpark** - Staff parking, loading and visitor parking, storerooms, staff bathrooms, lift and stair access, staff office, staff kitchen, foyer areas, services / plant rooms, laundry facilities, kitchen facilities, bin storage, staff courtyard area, vehicle ramp access.

**RL10.50 Ground Floor Level** - Kitchen facilities, nurse station, resident living / lounge and dining areas, resident kitchen areas, services rooms, storage areas, lift and stair access, communal terrace areas, 14 aged care bedrooms for residents (including ensuite and storage).

**RL13.50 Floor Level 1** - Kitchen facilities, staff offices / nurse station / reception area, resident living / lounge and dining areas, resident kitchen areas, hair salon (for residents), services rooms, storage areas, lift and stair access, communal balcony areas, 19 aged care bedrooms for residents (including ensuite and storage).

**RL13.50 Floor Level 2** - Kitchen facilities, staff offices / nurse station / reception area, resident living / lounge and dining areas, resident kitchen areas, hair salon (for residents), services rooms, storage areas, lift and stair access, communal balcony areas, 17 aged care bedrooms for residents (including ensuite and storage).

- Landscaping works, stormwater drainage, pedestrian pathways, fencing and ancillary site works.
- Registration of new easement / access right of way for the property Title (by private arrangement).

## 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

Pittwater Local Environmental Plan 2014 - 1.9A Suspension of covenants, agreements and instruments  
 Pittwater Local Environmental Plan 2014 - 4.5A Density controls for certain residential accommodation  
 Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation  
 Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
Pittwater 21 Development Control Plan - C1.7 Private Open Space  
Pittwater 21 Development Control Plan - C1.21 Seniors Housing  
Pittwater 21 Development Control Plan - C5.1 Landscaping  
Pittwater 21 Development Control Plan - D9.6 Front building line  
Pittwater 21 Development Control Plan - D9.7 Side and rear building line  
Pittwater 21 Development Control Plan - D9.9 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 52 DP 881594 , 24 Darley Street East MONA VALE NSW 2103
<b>Detailed Site Description:</b>	<p>The allotment is generally rectangular in shape having a frontage of 34.515 metres (m), depth of 37.39m and an area of 1,749 square metres (sqm). The property is located on the northern side of Darley Street East, approximately 130m east of Barrenjoey Road. The property does not contain any significant trees or vegetation and has a cross fall of approximately 2m in its width toward the west.</p> <p>The property is occupied by a single storey 33 bed nursing home known as <i>Seabeach Gardens Nursing Home</i>. The existing facility has no off-street staff or visitor carparking or loading facilities, however provision has been made on-site for an ambulance which parks along the single lane driveway (Right of Carriageway) located adjacent to the eastern site boundary. The driveway serves 13 parking spaces at the rear of site that belong to the neighbouring <i>Baldwin Living Seabeach Gardens</i> retirement village addressed as No.1 Seabeach Avenue.</p> <p>An electrical substation and associated access easement are located in the south eastern corner of the site.</p> <p>The property to the west, No. 28 Darley Street East, is occupied by a 4 storey residential flat building with ground level garage accommodation access via driveways down both side boundaries of the property. The property to the east is a listed heritage item of Local significance pursuant to Schedule 5 of Pittwater Local Environmental Plan 2014.</p> <p>Baldwin Living Seabeach Gardens retirement village to the north has primary frontage to Seabeach Avenue. This development occupies a large sprawling site extending from Seabeach Avenue and along Barrenjoey Road to Darley Street East. The subject site formed part of this land holding before the nursing home was subdivided from the previous land holding.</p> <p>The properties to the south are occupied by 2, 3 and 4 storey residential flat and townhouse style development reflecting the R3 Medium Density zoning of the precinct.</p>



The subject property is within short walking distance of Mona Vale Town Centre, Mona Vale Golf Course and a range of foreshore recreational areas.

Map:



## SITE HISTORY

**Building Application No.A415/67** for a convalescent home was approved by Council in 1967.

**Building Application No.1670/86** for alterations and additions to a nursing home was approved by Council in 1986.

All structures on the site are to be demolished and removed as part of the development proposal that include part excavation of the land. Therefore, no further consideration of the site history is required except conditions relevant to the safe handling and disposal / recycling of demolition material.

**Pre-lodgment Meeting No.PLM2019/0089** was held with Council on 21 May 2019 for proposed demolition and construction of an aged care facility on the site, including relocation of the right of way, landscaping and ancillary site works. The submitted proposal (as amended) is consistent with the PLM notes.

## 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) –	Draft State Environmental Planning Policy (Remediation of Land)

Section 4.15 Matters for Consideration'	Comments
Provisions of any draft environmental planning instrument	seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes as a nursing home for aged and disabled persons for extended period of time. The proposed development retains the residential use of the site, consistent with the current use, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 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 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application, however design considerations have been made to provide a building that achieves good design outcomes consistent with the general design principles of SEPP 65 due to the medium density residential surroundings.</p> <p>Overall the proposal provides a landscape setting and a building is consistent with the streetscape of nearby development and does not cause unreasonable impacts in terms of scale, bulk, amenity, parking, access, privacy, overshadowing, views and visual appearance.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to engineering and urban design concerns raised.</p> <p>Amended plans were provided that provided improved building articulation, reduced bulk and an appropriate roof form, reduced shadowing and a more sympathetic streetscape presentation.</p> <p>Re-notification of amended plans (24.2.2020) occurred on 3.3.2020.</p> <p>Some further minor amendments were required (24.4.2020) by Council for further address Council's engineering technical requirements for driveway access from Darley Street. Changes included improved driveway design, including landscaping, better vehicle access and relocation of the (commercial) bin area to the basement.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>All submissions have been considered inclusive in the context of those originally made and any subsequent submissions. Conditions are recommended to address any submission issues where appropriate.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 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 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. The construction of an Aged Care Facility on the site is considered to have a positive contribution to the demand for modern and improved (aged care nursing home facilities (replacement facility in this case) needed to cater for the local aging demographic that require assisted nursing / specialist care.</p> <p>(iii) <b>Economic Impact</b> 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 considering the land is currently developed as a nursing home. Additionally the through access will be relocated to maintain vehicle access to the existing parking area at No.1 Seabeach Avenue.
Section 4.15 (1) (d) – any	See discussion on “Notification & Submissions Received” in this

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	report.
Section 4.15 (1) (e) – the public interest	Consideration of issues have been made in the public interest in the context of any submissions pursuant to the Act, Pittwater DCP, Pittwater LEP and SEPP's. Conditions and / or amended plans have addressed issues. 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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Paul Burkett	Address Unknown
Ms Betty Margaret Alexander	22 Darley Street East MONA VALE NSW 2103
Gary Francis Coble	10 Whitty Crescent ISAACS NSW 2607
Ms Narelle Jane Reynolds	8 / 28 Darley Street East MONA VALE NSW 2103
Mrs Jennifer Anne Bibb	5 / 41 - 49 Darley Street East MONA VALE NSW 2103
Thomas Reid	Address Unknown
Mr Ivan Alexander Roberts	14 / 41 - 49 Darley Street East MONA VALE NSW 2103
Michael Henry Temple	2816 / 0 Mona Vale Road BELROSE NSW 2085

The following issues were raised in the submissions and each have been summarized below:

1. Solar access
2. View impacts
3. Traffic and Carparking
4. Noise, dust, air and amenity
5. Waste materials and management
6. Building plan amendments
7. Electricity substation
8. Dilapidation risk
9. Stormwater
10. Property value



In addition to considerations under the DCP, LEP and SEPP the submission issues have been considered and addressed as follows:

***1. Concerns with regard to overshadowing impacts created by the proposal toward adjacent land including No.28 Darley Street East and No.22A Darley Street East.***

Comment:

Detailed shadow diagrams (DA-10 drawn by *Gartner Trovato*) for 21 June have been provided by the applicant and detailed consideration of this issue is provided within this report under the heading Part C1.4 Solar Access and SEPP HSPD. The diagrams demonstrate the ACF building will be consistent with the objectives of the Pittwater DCP control and the SEPP HSPD to maintain reasonable solar access to adjacent land.

In summary, this objection issue is not considered to warrant refusal of the application and no special conditions are recommended.

***2. Concerns with regard to view impacts created by the proposal for properties overlooking the site from No.28 Darley Street East***

Comment:

The subject site and surrounding lands were inspected to consider view sharing. Where direct access was not available, a direct view line, or on the same view line or considered in reasonable proximity to ensure a comparative appreciation of views taking into account particular submission issues regarding views corridors and the amenity of the outlook.

A detailed consideration of this view sharing is provided within this report under the heading Part C1.3 Views. The proposal will not create an unseasonable view impact on coastal views from adjacent or surrounding properties and is consistent with the objectives of the Pittwater DCP control and the LEC Planning Principle on views.

In summary, this objection issue is not considered to warrant refusal of the application and no special conditions are recommended.

***3. Concern that the proposal will affect traffic and parking including the driveway position to Darley Street East.***

Comment:

The proposal includes compliant with parking requirements for the ACF including for staff, visitors and loading facilities pursuant to SEPP HSPD and the Pittwater DCP. A detailed traffic and parking report has been provided and Council's Traffic Engineers are satisfied with the design and layout of the driveway access and parking area including safety with no change to parking spaces within adjacent land. Sufficient space and right of access will also be retained for the existing parking spaces abutting the north-eastern corner of the site.

Further details are provided under the heading 'Internal Referral Responses' within this report and in summary the proposed access and driveway will comply with safety and design requirements under Australian Standards. Appropriate private arrangements will be made during works to maintain practical and legal access, including any associated conveyancing and pursuant to Clause 1.9A of Pittwater LEP 2014 is addressed by the provisions of that clause for the purposes of enabling development on the subject land.

The inclusion of additional 'no stopping' or other changes to the traffic or parking control measures in

the Darley Street East, including line marking would require detailed assessment and consideration by Council Traffic Committee as a separate representation. Council's Traffic Engineer has not required that the subject DA be referred to the Traffic Committee for the new driveway position and the proposal provides an appropriate driveway design to comply with Australian Standards for sight distances, gradients, safe passing widths including traffic control devices for the basement access.

This issue has been considered in detail under *Part B6 Access and Parking*. In summary, this objection issue is not considered to warrant refusal of the application.

***4. Concern that the construction phase will create amenity impact of dust, air, noise, asbestos material, pollution and traffic impacts with the length of time for construction being uncertain.***

Comment:

Issues of site management for dust and noise control, including access and the length of time for works is subject to construction industry standards and legislation applicable, including occupational health and safety laws. Conditions of consent are included under General Requirements and Prescribed Conditions including compliance with Australian Standards. Asbestos material if present / uncovered during demolition is subject to safe handling procedures in compliance with Australian Standards and occupation health and safety laws.

Overall amenity issues of dust, noise, work hours, pollution control, safety and the like are required to be managed on site during demolition and construction works by the site manager and as supervised by the Principal Certifying Authority. The duration of time required for demolition and construction is subject to various factors, however an Applicant has 5 years to commence works from the date of development consent. Once lawfully commenced a development consent remains 'active' unless formally surrendered therefore a length of time to 'hasten' or minimize the timeline for works to be completed cannot be imposed by Council.

A detailed traffic management plan during demolition and construction is addressed by conditions as recommended by Council's Traffic Engineer.

In summary, this objection issue is not considered to warrant refusal of the application and appropriate conditions are applied to address noise, dust, work hours, traffic management and the like in accordance with Council requirements and industry standards.

***5. Concern that waste management for the garbage collection bins adjacent the entry will disturb neighbours on collection days.***

Comment:

The proposal has been amended to relocate garbage bin storage in the basement and replace the front bin area with landscaping. Bins will be collected by private contractor and waste material including medical waste is managed by separate (private) commercial waste services from within the basement and therefore there will be no unreasonable noise impact on adjacent land.

In summary, this objection issue is not considered to warrant refusal of the application and appropriate conditions are applied to address waste issues.

***6. Concern that it is unclear what the amendments to the building plans were required to address bulk, solar access, amenity and driveway issues.***

Comment:

A number of minor amendments have been made by the applicant during the course of the assessment

to address design issues, principally raised by Council. Notably the ACF proposal has been reduced in scale from 51 to 50 accommodation rooms. In addressed issues raised by Council the bulk and scale of the building has been reduced by changes to the roof form and incorporating recesses and articulation features for the front and rear setbacks.

Minor driveway changes were required at the entry area to Darley Street East to relocate the passing bay away from the entry crossover for Council's Development Engineering requirements. This included relocating the bin area to the basement and minor landscaping inclusions near the entry area as well as allowance for ambulance parking and a passing bay half-way along the driveway. The existing parking spaces at the rear of No.1 Seabeach Avenue will remain unchanged by the proposal.

Council's development engineers have recommended conditions to ensure the existing retaining wall along the western boundary (with No.28 Darley Street East) is adequately supported / protected during excavation and construction works.

Overall the amendment to the plan have been sought by Council to improve streetscape and address building bulk considerations including improved solar access, maintaining amenity, privacy and visual quality of the development when viewed from the street and adjacent land.

In summary, this objection issue is not considered to warrant refusal of the application and is has been addressed by the design response required by Council, including recommended conditions.

#### **7. Concern regarding the location of the electricity box toward the rear of the site.**

##### Comment:

The electrical substation is to be moved closer to the road and the south east corner of the site. This adjacent an existing masonry boundary wall and subject to *Ausgrid* requirements. Referral details from *Ausgrid* are provided under the heading 'External Referrals' within this report.

In summary, this objection issue is not considered to warrant refusal of the application and is addressed by conditions.

#### **8. Concern that excavation and demolition may lead to dilapidation of adjacent property assets.**

##### Comment:

The proposal has been submitted with a Geotechnical Risk Assessment prepared by *White Geotechnical Group Pty Ltd*. The report provides consideration with regard to the development work in relation to site suitability, support requirements, stormwater, excavations, vibrations, retaining walls, foundation support, mechanical / machinery use and inspections. Through implementation of the advice provided in the geotechnical report and conditions of consent the development can be achieved with no unreasonable risk to adjacent properties or structures.

This issue is addressed by conditions to ensure the recommendations of the Geotechnical report are adhered to and a detailed dilapidation report is prepared for all adjoining private property.

Specific conditions and bonds are also applied to protect Council assets within the road reserve.

Therefore, subject to development conditions and management during Construction Certificate stage, this issue does not warrant refusal of the application.

#### **9. Concern that the existing drainage connections may change or pits within the rear of the site used to dispose builders waste.**

Comment:

The proposed ACF building will require a new stormwater system, including on-site detention that will drain to a new street kerb outlet at the south-western corner of the site. Details of the stormwater management plan are provided on plans SW1 and SW2 drawn by *Barrenjoey Consulting Engineers*. Standard industry requirements for compliance with Australian standards for drainage and erosion control as well as the disposal of waste materials are to be complied with in accordance with conditions. This includes the Waste Management Plan provided by the applicant and conditions that require compliance with pollution control laws.

Therefore, this issue is addressed by the design of the proposal, including conditions and does not warrant refusal of the application.

**10. Concern is raised that the proposal will cause a loss in adjacent property value due to the scale of the proposal and amenity impacts.**

Comment:

The proposal has been designed to be consistent with the R3 Medium Density zone and the objectives of the relevant development controls in order to minimise unreasonable impacts on adjacent land. Subject to merit considerations where applied the development maintains appropriate landscaped setbacks that are consistent with similar apartment buildings that have been developed in the locality pursuant to Pittwater LEP, Pittwater DCP and SEPP HSPD.

Issues of amenity have been addressed by design and conditions to ensure reasonable privacy, solar access, noise amenity, view outlook and spatial separation consistent with the medium density urban environment. The proposal does not cause any unreasonable impact on coastal views and solar access or isolate adjacent land from other re-development options.

No supporting evidence has been provided to substantiate any localised and sustained decline in surrounding land values that would be present at a future date upon completion of the proposed development. This issue is not a matter that can be assessed pursuant to the EP&A Act 1979.

Therefore, this issue does not warrant refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department, including the statement of Compliance by <i>Accessible Building Solutions</i> dated 17 July 2019 and Building Code of Australia (BCA) 2019 Capability Statement by <i>Philip Chun</i> dated 31 July 2019.</p> <p>There are no objections to approval of the development.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however are to be determined at Construction Certificate stage.</i></p> <p><u>Planning Comment:</u> Building Assessment comments are concurred with and conditions</p>

Internal Referral Body	Comments
	are included with the recommended conditions.
Environmental Health (Industrial)	<p><b>General Comments</b>  Proposal to demolish the existing 33 bed residential care facility and replace it with a 50 bed residential care facility. Environmental Health has considered acid sulphate soils, noise impacts and food regulation and provides the following comments:</p> <p><u>Acid sulphate soils</u>  There are Class 4 and 5 acid sulphate soils associated with this Lot. That means "<i>Works beyond 2 metres below natural ground surface; Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface.</i>" require some assessment and/or management. From the plans, we approximate 4 m of excavation below natural ground surface level, however the Northern corner (Class 4) of the Lot is not part of the basement. Therefore we recommend a general condition about notifying Council if acid sulphate soils are exposed during excavation.</p> <p><u>Noise</u>  The Statement of Environmental Effects states there is an 'acoustic report' provided with the application, but we found no such report on file. Despite this, we can make conclusions about the noise created by operations -same as current occupation -residential care facility -low impact on amenity. Further to that, the plans tell us that the plant room is situated in the basement and exhaust stack contained within the centre of the building -requiring no further investigation.</p> <p>Of further interest is the noise created by excavation of "extremely low strength shale" that can allegedly be done by excavator and bucket. If rock-breaking is to occur, the surrounding residents must be given formal notice of the activity prior to it occurring. This is addressed by condition as recommended.</p> <p><u>Food</u>  Food will be supplied to the occupants of this building and cooked in kitchens on-site. The appropriate regulatory authority must be made aware of this prior to occupation certificate being released.</p> <p><u>Recommendation</u>    APPROVAL - subject to conditions</p> <p><u>Planning Comment:</u>  Environmental Health (Industrial) comments are concurred with and conditions are included with the recommended conditions.</p>
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b>  The conditions associated with this development application (DA) are attached to the Environmental Health (Industrial) referral, please refer to that referral response.</p> <p><u>Recommendation</u></p>



Internal Referral Body	Comments
	<p>APPROVAL - subject to conditions</p> <p><u>Planning Comment:</u> Environmental Health (Food Premises) comments are concurred with and conditions are included with the recommended conditions</p>
Landscape Officer	<p><b>General Comments</b> The Arborist's Report and <i>Landscape Plan</i> submitted with the application are noted. The amended plans do not alter the landscape outcomes.</p> <p><u>Recommendation:</u> Subject to conditions as recommended, no objections are raised to approval with regard to landscape issues.</p> <p><u>Planning Comment:</u> Landscape Assessment comments are concurred with and conditions are included with the recommended conditions</p>
NECC (Development Engineering)	<p><b>Revised Development Engineering Assessment Comments 8 May 2020:</b></p> <p>No objections to the residential aged care facility subject to conditions.</p> <p><b>Previous Development Engineering Comments 21 April 2020:</b></p> <p><u>Driveway</u> The development is not supported for the following reasons.</p> <ul style="list-style-type: none"> <li>• The driveway entry and vehicle crossing details are inconsistent. The maximum width of the vehicle crossing is to be 4m from the side boundary and the driveway extent is to be clearly shown on the site plan which also is to include the location of the passing bay . A passing bay on the front boundary will not be permitted .</li> <li>• Additionally any proposed boundary retaining walls to support the access driveway are to be detailed on the plan. The bin storage area doors cannot open onto the access driveway.</li> <li>• The architectural plans detail a vehicle passing bay on Council's footpath area which needs to be fully located within the development site.</li> </ul> <p><u>Stormwater</u> The stormwater drainage concept plan which details the provision of On-site stormwater detention (OSD) is satisfactory.</p> <p><u>Planning Comment:</u> Development Engineering raised a number of technical concerns with</p>

Internal Referral Body	Comments
	<p>the proposal which the applicant has been able to address on with some minor design changes to the plans to address safety and part of the driveway width. The revised comments dated 8 May 2020 are concurred with and conditions are included with the recommended conditions.</p>
<p>Strategic and Place Planning (Heritage Officer)</p>	<p><b>General Heritage Comments:</b> The proposal has been referred to Heritage as it adjoins a heritage item - "House - 22 Darley Street, East"</p> <p>Details of the item, as contained in the Pittwater heritage inventory are as follows:</p> <p><u>Statement of Significance:</u> The House at 22 Darley Street, called "La Corniche" or Brock's Folly, was built as a grand mansion by a Newtown builder, George Sydney Brock. The house was a significant landmark in the early Mona Vale panorama and is historically significant for the agricultural settlement and development of Mona Vale.</p> <p><u>Physical Description:</u> Remnants of an earlier structure, Brock's Folly is on the original Mona Vale Farm. It is a single storey large pavilion with a central tower on the north facade. It features brick walls, terracotta tiled roof (not original), possibly re-using of the original capping. Decorative pressed metal roof on the tower. Interior details and joinery largely intact in 1991.</p> <p><u>Other relevant heritage listings:</u> Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 - No Australian Heritage Register - No NSW State Heritage Register - No National Trust of Aust (NSW) Register - No RAIA Register of 20th Century Buildings of Significance - No Other - N/A</p> <p><u>Consideration of Application:</u> The proposal seeks consent for the construction of a three storey residential aged care facility, with a basement car park level. The heritage item is located to the east of the site. Due to the rise in elevation across the property, the proposal includes significant excavation on the eastern boundary of the site which adjoins the heritage item. However this allows for an adequate landscaped buffer area to the heritage item, and lowers the overall appearance of height in this section. These elements help to minimise the impact of the new development on the heritage item to an acceptable level.</p> <p><u>Considerations against the provisions of CL5.10 of Pittwater LEP:</u> Is a Conservation Management Plan (CMP) Required? - No Has a CMP been provided? - No Is a Heritage Impact Statement required? - Yes</p>

Internal Referral Body	Comments
	<p>Has a Heritage Impact Statement been provided? - Yes</p> <p><u>Recommendation:</u> Therefore Heritage raises no objections and requires no conditions.</p> <p><u>Planning Comment:</u> Heritage assessment comments are concurred with and conditions are included with the recommended conditions for a dilapidation survey and engineering conditions to ensure adjacent property assets are not adversely affected by civil works.</p>
Strategic and Place Planning (Urban Design)	<p><b>Revised Urban Design comments on Amended Design 24 March 2020:</b> The proposed design is now a two to three storey articulated built form which steps down to two storey in the most visible corners. As such it has minimised the built form impact to the surrounding developments and is more contextually fitting.</p> <p><b>Previous Urban Design Comments:</b> Allowing for a built form control consideration in an R3 Medium Density Zone, the proposed built form is top heavy with the extensive roof overhangs proposed. Some of the soffits to the roof structures have very low height clearance over the middle concrete roof that construction and maintenance will be an issue. Nevertheless, the 8.5m building height calls for a two storey building with a roof form to fit in contextually with the streetscape. The top floor should be well set back from the lower storeys to create a less visible floor that will not be obvious from the surrounding streets and next door developments, ideally within the form of a roof structure.</p> <p><u>Planning Comment:</u> The Revised Urban Design comments are concurred with and the amendments to the plans reduced the impacts of the development to provide a more sensitive design response including less overshadowing, improved spatial separation (at corners of the building), improved wall articulation and streetscape presentation, reduced building scale from 51 to 50 rooms, increased landscaping and address some minor safety access considerations.</p>
Traffic Engineer	<p><b>General Comments:</b> A standard traffic light system is proposed to control entering traffic and vehicles exiting the basement and ground level carpark serving the neighbouring retirement village. The locations of the traffic lights, line marked waiting bay and signage locations shall be included in an amended plan prior to construction.</p> <p><u>Recommendation:</u> The proposal is acceptable, subject to conditions as recommended.</p> <p><u>Planning Comment:</u></p>

Internal Referral Body	Comments
	Traffic Engineering raised a technical concerns with the proposal which the applicant has been able to address on with supplementary information (dated 18 November 2020) on the basement access (signal system). Traffic Engineering comments are concurred with and conditions are included with the recommended conditions.
Waste Officer	<p><b>General comments:</b> As this development is a commercial premises and the property will be serviced by a private contractor only.</p> <p>However, we provide the following recommendations:</p> <p><u>Bin room design and location:</u> The applicant is to ensure there is a bin room at street level to facilitate a wheel out and return service by private contractor. Ideally the bin room is to be located within 6500 millimetres (mm) of the front property boundary.</p> <p>The pathway and access between the Waste Storage Area and Collection Point will be:</p> <ul style="list-style-type: none"> <li>a) Solid, concrete, continuous, non-slip and clear of any obstructions and steps.</li> <li>b) A maximum ramp gradient of 1 in 8.</li> <li>c) Hazard free and not via a pathway with vehicular traffic.</li> <li>d) A minimum width of 1200mm.</li> </ul> <p>Any doors fitted on the Waste Storage Area, pathway and access will be:</p> <ul style="list-style-type: none"> <li>a) A minimum width of 1200mm.</li> <li>b) Able to be latched in an open position.</li> <li>c) Unobstructed by any locks and security devices.</li> <li>d) Openable in an outward direction.</li> </ul> <p><u>Recommendation</u> Approval subject to conditions.</p> <p><u>Planning Comment:</u> Waste referral comments and conditions are concurred with and included with the recommended conditions, with the notation that the proposal originally had a bin holding structure at the driveway entry however this was deleted to address engineering requirements for driveway safety. The street frontage bin holding point was replaced with landscaping as the street bin holding point was also not essential since private contractors (not a Council service) will use the commercial bin room in the basement (for all waste service) with the basement loading loading dock.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to <i>Ausgrid</i> and a referral response was provided on 21 September 2019 with comments and requirements in relation to existing electricity assets (which includes the proposed repositioning of the substation electricity kiosk.

External Referral Body	Comments
	Requirements for <i>Ausgrid</i> are included in the recommended conditions of consent.
NSW Police – Crime Prevention Office (Local Command matters)	<p>The proposal was referred to Local Command for comments from the NSW Police regarding CPTED considerations. No comments or recommendations were provided within the 21 day statutory period.</p> <p>The proposal is considered to have a satisfactory design with regard to CPTED considerations.</p>

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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

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

#### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential (aged care) 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use for aged care. Matters relating to safe handling of and potentially hazardous materials, if present and identified during demolition, (such as asbestos, lead paint etc) are addressed by conditions. The site is not located adjacent any industrial style land uses that may have caused potential contamination of the site such as petroleum or chemical storage.

#### SEPP (Housing for Seniors or People with a Disability) 2004

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for an Residential Care Facility.

*In this Policy, a **residential care facility** is residential accommodation for seniors or people with a disability that includes—*

*(a) meals and cleaning services, and*



*(b) personal care or nursing care, or both, and*

*(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

## Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

### Comment:

- The site is currently occupied by a Nursing home (aged care facility) with 33 beds and normally has staff of 12 employees. The new ACF will provide and increase in the supply of aged care services with 50 new accommodation rooms in a 3 storey building with nursing, living and communal areas on each accommodation floor. The building is accessible with lifts, stairs, reception areas, service rooms and car parking to meet the aged care needs of residents with the new facility.
- The proposal has been designed to make more efficient use of the site and associated infrastructure by base carparking, connection to essential services infrastructure and utilities. Access is provided for off street parking with the new through driveway design.
- The building has achieved a good design with open plan central areas for cross ventilation and light. Ease of access internally for occupants and staff, including service areas, such as laundry, commercial kitchen and deliveries are integrated into the design from the basement parking area. The building bulk and scale has been appropriately articulated to create a modern residential appearance that is consistent with adjacent building height and scale including setbacks. A landscape setting is maintained for the external amenity of the building and no unreasonable impact is created in terms of views, overshadowing, privacy for the medium density environment. Each of the 50 aged care accommodation bedrooms has a bathroom, storage and good internal amenity to meet the needs of occupants in terms of aged and disabled persons care, including access on each residential floor to living areas for social interaction and nursing staff. Appropriate access is provided for and ambulance.

## Chapter 2 – Key Concepts

### Comment:

- The proposal satisfies the key concepts for a Residential Care Facility pursuant to the SEPP being that the proposed facility will provide meals and cleaning services, personal care and nursing care, appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care.

## Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>PART 2 - Site Related Requirements</b>			
26(1)	Satisfactory access to: (a) shops, banks 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	Mona Vale Town Centre is situated 440 metres walking distance from the subject site toward the west. The Mona Vale town centre also has community facilities, recreational areas and medical practices. Bus links are available from Mona Vale Road to other regional centres of Dee Why, Manly and the City.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	An accessible path of travel along Darley Road East is available for appropriate access to the north and south bound bus stops on Barrenjoey Road. The distance to these bus stops is approximately 140 metres to the south bound bus stop and 190 metres to the north bound bus stop. The bus stops provide the minimum servicing requirements of the SEPP including access to the services such as banks, shops, retail and commercial uses located within the Mona Vale Town Centre.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	Not applicable
28	Consideration is given to the suitability of the site with regard to the	Water and sewerage infrastructure connections are available from Sydney Water assets.	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	availability of reticulated water and sewerage infrastructure.		
29	<p>Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<ul style="list-style-type: none"> <li>The site has been used as a Nursing home facility for many years and is adjacent other medium density style housing, including a multi-storey retirement village to the north, a four storey apartment building to the west and other multi-storey apartments to the south and east of the site. The land to the immediate east is occupied by a dwelling house.</li> <li>A landscape setting will be provided for the new ACF in the form of new ground level deep soil areas within the setbacks to provide a buffer that will contain a mix of small, medium and large trees to enhance the natural environment within the urban streetscape setting.</li> <li>Service and infrastructure will be provided for the building, including basement parking, electricity, sewer, water and telecommunications. The site is in close proximity to the Mona Vale Town centre that has financial services, including banking and associated uses.</li> <li>The proposed ACF has been designed to have an articulated building form that is consistent with the pattern of surrounding medium density development. Some minor design refinement were made during the assessments to selected parts of the building to improve roof form, reduce building bulk and enhance the visual amenity of the building in context of the pattern of surrounding development and streetscape. The external colours and materials are appropriate for the urban setting. The proposal is compatible with adjacent land uses and, subject to conditions will not unreasonably impact the adjacent residential uses in terms of parking, access, noise, privacy, overshadowing, views, and residential amenity.</li> </ul>	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	A site analysis plan has been provided (DA-02) including written summary considerations within the Statement of Environmental Effects.	Yes

#### Clause 31 Design of in-fill self-care housing

Pursuant to Cause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

Clause 32 Design of residential development In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD for the Design Principles:

Design Principles	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The site is within the Mona Vale locality that is described within the Pittwater 21 DCP. The proposal is consistent with the key elements relevant to building in the context of the character statement. The design quality of development provides an appropriate fit within the visual catchment around the site and identity of the area, including residential presentation to the street, use of landscaping, driveway location, pedestrian access, external colours and materials.	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified	The proposal provides an appropriate landscape buffer and spatial separation toward No.22 Darley Street.  See detailed comments provided within the 'Heritage	Yes

Design Principles	Requirement	Proposed	Compliance
	<p>in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p>	<p>referral response' within this report.</p> <p>In summary, the heritage assessment raises no objections and no special conditions.</p> <p>The height, bulk and setbacks of the 3 storey ACF is compatible with the height and scale of surrounding and nearby development noting that SEPP HSPD does not impose the same restrictions on building form for a medium density zone as opposed to low density areas. The height and design of the building achieves acceptable outcomes for solar access and spatial amenity.</p> <p>The building form has utilised the constraints and opportunities of the land from to position the building with floor levels that do not create excessive height when viewed from the street or surrounding land. Relief is provided by variable setbacks along each elevation and landscaped setbacks.</p> <p>The height of the development does not give rise to any unacceptable residential amenity impacts in terms of views, privacy or solar access.</p> <p>The proposed building is not positioned on the boundary, however works near the boundary line such as excavation, driveway reconstruction, substation, fencing and the like are addressed by conditions. Similarly there are minor structures on adjacent land such as driveways and</p>	Yes



Design Principles	Requirement	Proposed	Compliance
		retaining walls that are addressed by conditions to ensure no unreasonable impacts such as by dilapidation assessment and support during construction work.	
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The building has a front setback that is consistent with adjacent multi-storey buildings along Darley Street East that are near the site, in terms of the surrounding visual catchment.	Yes
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	A landscape setting is proposed for the development including courtyard and some minor roof landscaping (foyer entry area). The landscaping will embody local species and a landscape quality outcome that is consistent with the desired future character of the Mona Vale locality.	Yes
	f. retain , wherever reasonable, major existing trees, and	Tree removal for 3 existing trees is required for the proposed construction work. New landscaping and new native trees will appropriately compensate for the long term landscape setting for the site, including various plantings commensurate with the building height and available space. The proposed landscape regime is depicted on the plans prepared by <i>Trish Dobson Landscape Architect</i> .	Yes
	g. be designed so that no building is constructed in a riparian zone.	The site is not within a riparian zone.	Not applicable
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents	The design of the ACF includes privacy attenuation measures are provided where necessary to prevent direct overlooking opportunities to adjoining residential	Yes

Design Principles	Requirement	Proposed	Compliance
	<p>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>(b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>properties, including minor landscape planters on selected balcony areas for amenity.</p> <p>The proposal includes basement parking for cars, including a delivery loading dock and internal stair and lift access. The basement opening is toward the rear and links to an existing driveway and parking area. The site is burdened by an existing through access to the adjacent Seaview apartments however a new driveway and ROW will be provided and the main reception area is covered by a roof top area to buffer noise. Therefore, the new bedroom areas of the building are adequately protected from noise of the basement parking areas and as traffic volumes are considered low for the ACF there will be no unreasonable noise levels for new bedroom areas.</p>	
CL35 Solar access and design for climate	<p>The proposed development should:</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation</p>	<p>The impact of overshadowing is demonstrated on the plans DA-10 and shows that the principal shadow impact on No.28 Darley Street East (flat building) occurs before 9am on 21 June. After 9am the shadow falls into the driveway area and ground floor garages of that adjacent building with increasing sunlight until the eastern side of No.28 Darley Street is self shadowed after midday.</p> <p>During the afternoon period the property of 22Darley Street will be affected by increasing shadow on the western side of the rear yard, front yard and western</p>	Yes

Design Principles	Requirement	Proposed	Compliance
	solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	<p>elevation between 1pm and 3pm on 21 June. This property is not affected during the 3 hour morning period and up to 1pm and therefore the proposal satisfies the DCP criteria for No.22 Darley Street East.</p> <p>Therefore, in summary the proposed building is able to maintain a reasonable level of solar access pursuant to this objective of the SEPP.</p> <p>The proposal has been site planned to utilise cross ventilation and capitalise on the solar aspect of the northern elevation. The wide setbacks also allow screen tree planting near bedroom window areas. The communal areas will receive winter sun from the northern common area and wide eaves are included as part of the building design to provide shade in summer.</p>	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Subject to conditions, the engineering and landscape plans provided are satisfactory to address stormwater management, including retaining deep soil zones for infiltration, new stormwater connections and on-site detention.	Yes, subject to conditions.
CL 37 Crime prevention	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling</p>	<p>The proposal has been designed to address the street in terms of the building facade and the entry area is easily identifiable. The reception area has appropriate at grade access for cars and pedestrians including high visibility.</p> <p>The basement parking area will have security and staff areas in the basement also</p>	Yes

Design Principles	Requirement	Proposed	Compliance
	<p>and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>have a foyer area to access service and administrative areas.</p> <p>The principal shared entry at ground level has a reception desk adjacent to serve the building.</p> <p>The main entry at ground level and the basement carpark provide appropriate security and safety for the ACF residents. A reception area is provided at the main ground floor front entry.</p>	
CL 38 Accessibility	<p>The proposed development should:</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>Darley Street East has existing footpath links that meet safe access requirements including links to signal crossings for Mona Vale Road.</p> <p>The ACF building has been design to achieve compliance with AS1428 for and AS2890 for traffic, parking and pedestrian accessibility requirements.</p>	Yes
CL 39 Waste management	<p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Waste management will be required to be services by private contractor and not council since the building includes medical waste and of a commercial nature. The building contains a basement bin room and loading dock for private contractors.</p>	Yes

Part 4 - Development standards to be complied with Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1,749 sqm (shared right of way area	Yes
Site frontage	20 metres	34.5m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8.0m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Not adjacent to a boundary. Setbacks comply with setback requirements for R3 Medium Density zone.	Not applicable
	A building located in the rear 25% of the site must not exceed 1 storey in height.	Not applicable in R3 Medium Density zones where residential flat buildings are permitted.	Not applicable

Division 2 - Residential care facilities - standards concerning accessibility and usability.  
Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the *Building Code of Australia*. The applicant has provided a BCA capability assessment (Report No.19-213367\_Cap\_Stat\_Report\_R02 dated 31 July 2019) to demonstrate that requirements under the BCA are achievable, subject to conditions and construction certificate details.

#### **Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities**

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds -

(a) **Building Height:** if all proposed buildings 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)

##### Comment:

This building height standard has been similarly addressed in Clause 40. In summary, the building complies with the 8.0m height control measured to the underside of the ceiling from existing ground level, as per the SEPP.

(b) **Density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less

##### Comment:

The proposed ACF has an FSR of 1.16:1 and therefore exceeds this development standard.



A detailed merit assessment of the variation is provided as follows:

- The proposal had an FSR of 1:26:1 however some minor amendments have resulted in one less room and a reduction in the bulk of the upper floor level. The 1:1 standard applies to both low density and medium density sites and allowing no disparate or proportional FSR for higher density areas. The subject is adjacent other multi-storey buildings and does not demonstrate a visual bulk and scale that is disproportionate to the *Baldwin Living Seabeach Gardens retirement village* to the north or No.28 Darley Street East or No.20 Darley Street East.
- A wide landscape setback is provided to No.22 Darley Street East (immediately adjacent) including variations in the wall lines and external materials to ameliorate building bulk and scale and distribute the floor space of the building.
- In summary, the variation to the FSR of 1.16:1 proposed in variation to the development standard (1:1) is not considered to give rise to an unreasonable impact on surrounding land in terms of streetscape, landscaping, privacy, solar access, views, and general amenity consideration. The ACF is of a satisfactory design response in accordance with the Design Principles required to be addressed under the SEPP and its objectives.

Note: In the case of a residential care facility the SEPP excludes any floor space below ground level (basement area) that is used for service activities provided by the facility.

(c) **Landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided

The proposed ACF has 50 beds and therefore requires 1,250 sqm. Total landscaped area is 585 sqm which does not comply with the development standard.

Comment:

A detailed merit assessment of the variation is provided as follows:

- A significant area of landscaping is taken up by the need to retain the legal right of way to Seabeach Apartments carpark at the rear of the site, and in this regard the basement access ramp would normally go directly below the building from the street frontage. Notwithstanding this, the through driveway is a longstanding constraint on the site that currently limits landscaping on the eastern side of the property. The transfer of the driveway access to the western side will enable wide landscape buffer along the eastern setback and co-locate the new driveway adjacent the driveway of No.28 Darley Street East, which has its garaged on the ground floor level. A new landscape buffer however will be provided along the boundary between No.28 Darley Street and the ACF as well as 1.8m 'lapped and capped' fencing.
- On the western side of the building landscaped planting has also been provided close to the edge of the building to soften the side view from No.28 Darley Street and by using a 'green roof' for the 'porte cochere' entry area. On the eastern side of the building a wide deep soil zone is provided including space for medium sized canopy trees and mixed planting for a landscaped setback facing the dwelling at No.22 Darley Street East. The Landscape Design concept is shown on plans No.DA-L01, DA-L02 and DA-L03 drawn by *Trish Dobson*, dated 9.8.2019.
- A landscape setback is provided for the front and rear of the building, including trees, shrubs and ground covers to provide a landscaped setting for the building, screening and enhance the amenity of the building.

- In summary, the variation to the landscape open space requirement is not considered to give rise to an unreasonable impact on surrounding land in terms of the amenity provided for the occupants of the ACF. The deep soil setback areas include a mix of native plants and trees to enhance the streetscape, privacy and general amenity in relation to surrounding land. The ACF provides and appropriate Design Principles for the site in terms of quality landscaping design to meet the objectives under the SEPP despite the numerical non-compliance.

**(d) Parking for residents and visitors:** if at least the following is provided—

- (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and
- (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and
- (iii) 1 parking space suitable for an ambulance.

Comment:

- 5 car parking spaces are provided for the 50 beds in the residential care facility which complies with this standard.
- 10 employee parking spaces are provided for the 19 full time equivalent staff which complies with this standard.
- 1 suitable ambulance parking space is provided which complies with this standard.
- A loading / service delivery dock and visitor spaces (including a disabled persons parking space) are also provided in the basement carpark.

(A total of 16 car spaces are provided, plus a courier / loading bay and ambulance bay are provided. The driveway also includes a passing bay along the driveway for cars coming from / to the basement or Seabeach apartments at the rear)

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3. This has been addressed above under the heading "Design Principles".

Part 5 Development on land adjoining land zoned primarily for urban purposes  
This part is not applicable to the subject site.

Part 6 Development for vertical villages  
This part is not applicable to the proposed development.

Chapter 4 – Miscellaneous

Comment:

The residential care facility must include a fire sprinkler system which addressed within the BCA Report and recommended conditions.

**SEPP (Infrastructure) 2007**

## Ausgrid

Clause 45 of the SEPP 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* and a referral response was provided on 21 September 2019 with comments and requirements in relation to existing electricity assets. The substation is indicatively shown on the architectural plans at a setback proposed of less than 0.9m to the side boundary. However, as this electrical kiosk infrastructure facility is an asset under the care and control of *Ausgrid* the Service Authority will dictate the final position subject to infrastructure requirements as provided in the *Ausgrid* referral response.

## Other Service Infrastructure Authorities

The proposal was not required to be referred to the *Roads and Maritime Service* and no other Service Authority referral requirements are raised pursuant to the SEPP.

## **Pittwater Local Environmental Plan 2014**

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*: (measured from EGL survey level)	8.5m	8.5m	N/A	Yes
Density controls for certain residential accommodation*	1 dwelling per 200sqm	No self contained dwellings	N/A	Yes

\* Provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, prevails over Pittwater LEP 2014 development standards.

Note: Under the Pittwater WLEP map the land is also identified as "SEPP5 Seniors Living" as well as "R3 Medium Density".

## Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.5A Density controls for certain residential accommodation	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

#### Detailed Assessment

#### **1.9A Suspension of covenants, agreements and instruments**

The site contains easements for driveway access that will need to be altered for the new access along the western boundary for land to the rear. This will be managed under separate private arrangement to suit the new driveway access, parking, landscaping and building works.

#### **4.5A Density controls for certain residential accommodation**

While this clause applies to dwellings for seniors housing, the development is not for independent living units (ILU) in the form of separate dwellings. Therefore, the density controls are not applicable to an Aged Care Facility in the building form of a nursing home where by accommodation is provided in bedrooms that share common areas for social interaction, staff and nursing care, meals, services, visitation and daily living.

Kitchen and living areas are provided for each of the 3 floors, however no kitchen facilities are provided in any resident bedrooms. Effectively each of the 3 residential floors only is a separate dwelling unit adapted for the special design needs and layout required for an Aged Care Facility.

#### **5.10 Heritage conservation**

See details provided under the section Internal Referrals - Heritage within this report. In summary, the proposal is considered to be acceptable in the context of the wide landscape buffers provided, architectural design and objectives of the R3 Medium Density Residential zone.

#### **Pittwater 21 Development Control Plan**

##### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (or established building line)	5.75m to 7.8m Above ground Building 6.1m Basement	13%  6%	No*  No*

Rear building line	6.5m	3.4m Basement ramp 7.0m	43%	No*
		Basement 7.0m to 11.4m	N/A	Yes
		Western Boundary building	N/A	Yes
Side building line	2.5m	4.2m Basement 4.2m to 6.2m	N/A	Yes
		Eastern Boundary building		
	1.0m	4.7m Basement 5.2m to 8.6m	N/A	Yes
		Western Boundary building	N/A	Yes
Building envelope	3.5m	Outside envelope (eaves for shading permitted)	N/A	Yes
	3.5m	Outside envelope (eaves for shading permitted)	N/A	Yes
Landscaped area (Site area 1,749sqm)	50% 875.5 sqm	33.4% 585 sqm	33%	No*

\*Refer to detailed merit assessment under the heading 'Built Form Controls' within this Report.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	No	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C5.19 Food Premises Design Standards	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	Yes	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **A4.9 Mona Vale Locality**

Consistency with the desired future character (DFC) of the Mona Vale Locality is addressed as follows:

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale.*

#### Comment:

- The DFC emphasises that building height limit is a development control measure to ensure the landscape setting is dominant over local trees in this urban zone and the proposal has maintained compliance and allowed landscape space for the amenity provided by canopy trees adjacent the building. In addition some minor design refinements have been during the assessment to better respond to the DFC and reduce impacts associated with building bulk which is satisfactory.

*Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like.*

#### Comment:

- The proposal has incorporated appropriate façade modulation to provide visual interest and amenity including a contemporary roof form. This includes the recess sections and window treatment along the side elevations to minimise privacy impacts and incorporate balcony elements and screens where appropriated. A balance of shade elements for windows and screens assist to provide facade modulation and include use of some lightweight materials to add to the visual interest of the building and reduce building bulk, including some stepping in at the upper corners of the building.

*Building colours and materials will harmonise with the natural environment.*

#### Comment:

- The DFC seeks that external colours and materials should include colours and material in a palette style that is in harmony with the natural environment. The colours and materials selected are represented on the plans (DA-08) which is consistent with the DFC to include sandstone, masonry, rendered walls and wall panel materials that provides visual interest and suitable for the urban setting.

In summary, the design of the ACF appropriately responds to the topography and site constraints including the streetscape and context of adjacent land uses. The proposal maintains appropriate separation to the adjacent heritage building which has local historical significance and there are no natural hazards present on the site such as flooding, slope or soil conditions that are prohibitive to the redevelopment of the site. A landscape setting is provided for the building and the size and scale of the building warrants the use of a basement carparking to provides off street parking for visitors, staff and service deliveries without an unreasonable amenity impact on the surrounding medium density urban environment.

### **C1.3 View Sharing**

*All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.*

Comment:

- The proposal has been considered in the context of surrounding views and adjacent development, in particular potential views toward Mona Vale beach and a detailed consideration of view sharing is provided below. The surrounding and nearby properties have been visited (where access is available) or appropriate nearby vantage points used to consider views.

*The proposal must demonstrate that view sharing is achieved though the application of the Land and Environment Court's planning principles for view sharing.*

Comment:

- The four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal as follows:

#### **1. Nature of the views affected:**

Comment:

- A site visit of the subject property, adjacent building of No.28 Darley Street East and investigating potential view lines from the vicinity revealed that the 3 storey flat buildings and dense canopy trees at No.16, No.18 and No.20 Darley Street East substantially blocks views from No.28 Darley Street East toward the coastline. In addition, the road corridor rises to a ridgeline that also restricts the view lines (including street trees) at a lower level (first floor / ground floor). Therefore, the nature of the views are substantially obstructed by existing urban development (including trees) and are not readily obtainable as broad vistas of ocean water or the beach interface across the building envelope.

#### **2. What part of the affected property are the views obtained**

Comment:

- Views from No.28 Darley Street East are across the side boundary but immediately interrupted by development and canopy growth on properties to the east of the site beginning at No.20 Darley Street East. Due the the similarity of front setbacks building alignments eastern view

lines across adjacent front setbacks is restricted to the narrow road corridor, but even this is reduced by street trees and topography 100 metres East of the site. From the rear setback (looking east) views are also heavily obstructed due to the greater length (depth) of No.16 to No.20 Darley Street East. There are no distinct coastal or district view lines due north or due south across the site from surrounding development.

### 3. Extent of impact

#### Comment:

- There are no iconic elements in the view corridor toward the east (such as a Headland feature or the like) and the impact of the construction of the proposed ACF building is considered to be negligible due to the pattern of surrounding development to the east, existing tree canopy and higher ground means existing development in the vicinity of No.18 Darley Street obstructs views across these properties east of the site. the extent of view impact is therefore quantitatively assessed as negligible.

### 4. Reasonableness of the proposal that is causing the impact

#### Comment:

- In final consideration of the view assessment criteria pursuant to the Land and Environment Court's planning principles for view sharing the development complies with the height and front setback controls and provides reduced bulk on the upper level for the corners. Overall the ACF is considered to be of a skillful design to provide a reasonable development for the medium density location that is compatible in terms of amenity, views, building bulk, spatial separation and landscaping. In this regard, view sharing impacts are reasonable in context of the surrounding urban environment and location.

### Pittwater DCP Merit Assessment

*Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.*

#### Comment:

- The building has been setback on an appropriate alignment to retain views along the road corridor toward the east. Due to larger existing residential apartment buildings at No.16, No.18 and No.20 Darley Street East obstruct views directly east due to the higher ground (low ridge) and the proposal does not create any unreasonable view impact between dwellings. Generally the view and vistas from roads and public places is not impacted by the proposal.

*Views are not to be obtained at the expense of native vegetation.*

#### Comment:

- The proposal has included landscaping around the periphery of the building and the DCP gives priority to canopy trees in terms of views. Notwithstanding the tree planting proposed is appropriate within the setback areas including the street frontage whereby open canopy native trees have been selected to provide filtered views of the building and along the street.

### Conclusion

The proposal is considered satisfactory in terms of view sharing issues and no design changes are

recommended by conditions pursuant to this DCP clause.

#### **C1.4 Solar Access**

*Residential development is sited and designed to maximise solar access during mid-winter.*

Comment:

- The proposal has been designed with appropriate window spaces to the north, east and west to maintain adequate internal solar amenity during mid-winter. This includes communal areas and balcony spaces that are north facing at the residential levels of the building. The ACF building also includes a courtyard at ground level for amenity of the staff room area, at the northern end of the basement level, and design considerations to regulate cross ventilation.

*A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.*

Comment:

- The impact of overshadowing is demonstrated on the plans DA-10 and shows that the principal shadow impact on No.28 Darley Street East (flat building) occurs before 9am on 21 June. After 9am the shadow falls into the driveway area and ground floor garages of that adjacent building with increasing sunlight until self shadowing of the eastern side of No.28 Darley Street after midday.
- During the afternoon period the property of 22A Darley Street will be affected by increasing shadow on the western side of the rear yard, front yard and western elevation between 1pm and 3pm on 21 June. This property is not affected during the 3 hour morning period and up to 1pm and therefore the proposal satisfies the DCP criteria for 22A Darley Street.

Therefore, in summary the proposed building is able to maintain a reasonable level of solar access pursuant to this objective of the DCP.

*Reduce usage and/dependence for artificial lighting.*

Comment:

Consideration has been made within the site or external to the site for the surrounding residential development in terms of designing the ACF building to utilise natural light from generous window spaces, balconies and clerestory window elements. These features of the building will reduce the depended for artificial lighting. In addition, the spatial separation between the proposed ACF building and adjacent dwelling is adequate to allow natural light amenity due to the wide open setbacks and articulation including stepped eaves / roof line of the ACF.

#### **C1.5 Visual Privacy**

*Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

Comment:

- The proposal has been designed to ensure balanced privacy for the design by the use of landscaping, window screens, balcony spaces and building separation of 8.5m or more (up to 18m) to adjacent building windows. The habitable rooms include 'hooded' style screens direct selected views in order to optimize privacy by design and fenestration.

*A sense of territory and safety is provided for residents.*

Comment:

- The proposed ACF building has a high level of definition between the public domain and the interior of the building including appropriate use of landscaping, fencing, staff facilities and reception areas to ensure a sense of territory, safety and security for occupants.

*Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*

Comment:

- The proposal maintains appropriate levels of both visual privacy through design elements integrated to balcony areas (such as dimensions and planter boxes) and orientation of internal living and screen angles relative to adjoining living and open space areas. Integrated privacy attenuation measures have been implemented along the side elevations, particularly for the upper floors.

*Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

Comment:

- The proposed building, due to it being a specialist aged care facility with single bedrooms designed for aged care supported by nursing care and meals with communal areas means that limiting the entire building to 50% overlooking from all levels and all windows collectively is not readily achievable above the ground floor. Fixed privacy attenuation measures are provided where necessary to appropriately direct overlooking and angle view lines to ensure no unreasonable privacy impacts to adjoining residential properties.

## **C1.6 Acoustic Privacy**

Acoustic privacy and noise impacts are considered to satisfy the objectives of DCP control as follows:

Comment:

- Noise is substantially contained within the building due to the positioning of bedrooms at the outer surrounding and maintaining communal areas (kitchen / dining) in the central or core areas. The commercial kitchen and laundry service rooms, including loading dock and staff areas are located in the basement to minimise operational noise and associated activity from adjacent (neighboring) private open space. The ACF is a form of residential use that requires 24 hour supervision of residents to be available and therefore audible noise is able to be managed by staff where incidents of residential noise may occur for short periods (e.g social events and the like).
- No unreasonable offensive, as defined by the *Protection of the Environment Operations Act 1997*, is able to be appropriately managed by conditions for elements such as plant rooms, air conditioning motors and the like. The building is generally 'enclosed' being that there are not large open areas along the side elevations and windows gap openings (such as casement style windows) can be limited to buffer noise within the building.

### **C1.7 Private Open Space**

The ACF building does not include any private open space (allocated to individual private occupants). This is addressed as follows:

Comment:

Merit consideration of the private open space control is addressed and satisfied as follows:

- While private open space is not the proposal include common opens space ares in form of balconies and ground level areas the provide appropriate amenity and are well-located to compliment the use other areas in the building (such as living spaces or dining amenities) and with enhance the quality of life for occupants of the ACF.
- The common open space areas are integrated directly accessible from the living areas of dwellings and close to bedrooms also for ease of access for aged or disabled persons. This includes external areas and pathways as spaces for amenity and enjoyment of the occupants as illustrated on the landscape design plan.
- The communal open space area will receives sufficient solar access and privacy, along the northern and eastern side of the building. Open space areas facing the street assist to enhance the presentation of the building to the street in terms of its connection to passing activity and maintaining a link or outlook toward community and character of Mona Vale.

### **C1.21 Seniors Housing**

The proposal satisfies the requirements of this part of the DCP for the following reasons:

Comment:

- Visual bulk and scale of development is appropriate for the medium density zone and the visual bulk and scale of the development fits in with surrounding development. The footprint of development strikes an acceptable balance with landscaping planting to achieve the outcomes of the desired future character of the locality.
- The use of the land for an ACF is consistent with the current use of the land and contributes to the social mix of residents in the neighbourhood while maintaining consistency with the objectives of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2000 to cater for the demand for aged care facilities in the community.
- The proposal has been considered in term of cumulative impacts such as carparking, noise, streetscape, built form and general amenity. On balance the proposal will not have an unreasonable adverse cumulative impact and such impacts have been minimised, subject to conditions. The application has been provided with appropriate reports prepared by suitably qualified professionals to address the design requirements for the ACF in accordance with the Pittwater LEP, Pittwater DCP and SEPP HSPD.

### **C5.1 Landscaping**

The proposal has 585 sqm of landscaping that is a 33% shortfall of landscape open space



requirements of the DCP for 50% of the site area.

Merit consideration of the variation to landscaped open space is addressed as follows:

Comment:

- The proposed ACF building includes a built form that is screened and softened by landscaping which includes canopy trees as well as small, medium plantings within the setback areas to compliment the amenity of the building. Landscaping planting is commensurate with the scale and form of development inclusive of the allows to use ground level open space areas as common open space for the enjoyment of residents and visitors to the ACF.
- An arboricultural assessment report provides a detailed assessment of trees to be retained that those to be removed within the site. The landscape plan prepared by *Trish Dobson Architecture* includes a mix of native landscape planting that used screening plants, massed planting where appropriate and lawn areas with canopy trees to provide a landscape setting for the building. Edge planting is also used along the driveway and against the side of the building where appropriate to provide a buffer to adjacent property or the edge of the building to soften the appearance of hard surface areas.
- The landscaping proposed will not unreasonably obstruct driver or pedestrian visibility and provides visual interest to the building when viewed from street. Landscaping elements are integrated in to the building design by the use of wide setbacks and building modulation, including planter boxes on balcony spaces at the front and rear elevations.
- Overall a landscape setting is maintained for the building despite the offset or loss of space taken up by right of way area at the north eastern corner (adjacent carpark access) and the through access driveway required for the rear of No.1 Seabeach Avenue.

(Note: In addition, to the above merit assessment see further comments within this report under the heading "SEPP (Housing for Seniors or People with a Disability) 2004" regarding non-compliance with the SEPP provisions for landscape open space)

#### **D9.6 Front building line**

The proposal has a partial non-compliance for two protruding sections of the front wall elevation that is on a front setback alignment of 5.7m, rather than the minimum required *6.5m or greater corresponding building alignment*.

Comment:

Merit consideration of the non-compliance with the front setback control is addressed as follows:

- It is considered that the ACF building proposed satisfies the objectives of the front setback control by a design appearance that is consistent with the desired future character of the Locality that is consistent with other medium density development nearby and the building is in keeping with the height of the natural environment.
- The proposal does not have an unreasonable impact on views and vistas to and/or from public/private places and the setback reinforces and appropriately relates to the spatial characteristics of the existing urban environment.

- The setback does not unreasonably impact on the amenity of residential development adjoining, including pedestrian safety, landscaping and vehicle access / egress, subject to conditions.

#### **D9.7 Side and rear building line**

The proposal includes a variation to the rear setback for the basement ramp that is setback 1.2m (at 1m deep) to 3.4m (midway along the ramp) until it curves back under the building at the 6.0m rear setback.

Merit consideration of the variation to the rear setback is addressed as follows:

##### Comment:

- The overall design of the bulk and scale of the building, landscaping setting and spatial separation to adjacent development is considered to be consistent with the desired future character of the Locality in the context of the objectives for the R3 Medium Density Zone. The variation to the rear setback for the basement ramp does not create an unreasonable impact on surrounding amenity and is required to optimise access in connection with the adjacent driveway right of way required that connects to the rear parking area within No.1 Seabeach Avenue.
- The outlook and views from adjacent private land is not affected by the basement ramp within the rear setback and the ramp structure includes border landscaping to buffer and soften the appearance of the structural walls where the ramp descends through the rear landscaped setback into the basement carpark. Selected new screening plants (as shown on the landscape plan drawn by *Trish Dobson*) will be provided to soften the appearance of the ACF and provide border planting, when viewed from adjacent land at the rear.
- A reasonable level of privacy, amenity and solar access is provided for the rear setback area by a design that responds to the site characteristics and existing constraints for access to the adjacent carparking area. The above ground elements of the building comply with the rear setback and the proposal is considered to be consistent with the pattern of medium density development in the surrounding area.

(Note: Requirements under SEPP HSPD for 25% of the rear setback to be single storey apply to Low Density Residential zones)

#### **D9.9 Building envelope**

A merit assessment of the *side boundary envelope* control is addressed as follows:

##### Comment:

- The proposal achieves compliant setback to meet the building envelope projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries, with only a minor encroachment for the eaves for part of the roof projection. Eaves are permissible to encroach within the envelope and provide shade, water protection and visual interest to the building form.
- The spatial separation of and design of the building is consistent with the desired future character of the Locality by providing a built form that, while modern in style and

appearance, responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment. The side boundary envelope setbacks proposed to not have an unreasonable impact on views and vistas to and/or from public/private places. In unison with the mix of landscape screen planting and landscape design proposed for the setback areas the building will provide a suitable fit to the existing medium density streetscape and promote a building scale and density that is comparable to the height of the canopy trees to be replanted and the trees that exist on adjacent land.

- The bulk and scale of the built form has been appropriately addressed by a incorporating recessed elements, balconies, landscape planters and window elements including variation in colours and materials. The building design is considered to maintain a reasonable level of privacy, amenity and solar access within the development site and similarly no unreasonable amenity impact to adjacent residential properties.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

## **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 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$119,493 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$11,949,289.

## **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 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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

The proposal has been assessed as an Aged Care Facility (ACF) which is a permissible use pursuant to the SEPP (*Housing for Seniors or People with a Disability*) 2004. The principal assessment concerns raised during the assessment period are related to traffic and parking access, relocation of an existing right of way, privacy, overshadowing, urban character, landscaping, setbacks, views, construction impacts (during works) and stormwater.

The provisions of SEPP HSPD prevail over the Pittwater LEP and DCP and in this case the non-compliances with the FSR and landscaping controls are standards that "*cannot be used to refuse development consent*" pursuant to the SEPP, and therefore are addressed in accordance with Clause 48 of the SEPP. The proposal is considered to satisfy the objectives of the SEPP and is consistent with the Design Principles as well as site related requirements such as building height, carparking, accessibility, support services and infrastructure.

The requirements of Pittwater LEP and DCP apply in-so-far as particular considerations that the SEPP does not include those relevant considerations. In this regard matters relating to desired future character, setbacks, building envelope, bulk and scale, external materials, overshadowing, privacy, stormwater, views and traffic have been addressed. Suitable conditions are recommended to address assessment considerations detailed in the engineering, traffic and landscape referral responses and the proposal will not have an adverse impact on the adjacent heritage item of No.22 Darley Street East. Other internal referral considerations from Environmental Health, Waste Services, Building Assessment, Traffic and Development Engineering have been addressed by conditions as recommended.

Public submissions received have been considered and addressed within this report and conditions applied where appropriate to address those concerns. During the assessment period some design changes were made by the applicant to address issues relating to driveway safety, waste services, building bulk and external appearance. As a result, the proposal was reduced from 51 to 50 rooms in order to improve building articulation and address urban design considerations including of general amenity, landscaping, privacy, bulk and streetscape.

In summary, the proposal will replace an existing nursing home with a new multi-storey aged care facility and is considered to be satisfactory development for the zone and in context with the residential scale and intensity of the medium density residential zone.

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0860 for Demolition and construction of a Residential Care Facility including basement parking on land at Lot 52 DP 881594, 24 Darley Street East, MONA VALE, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-02 D Site Plan	24.4.2020	Gartner Trovato Architects
DA-03 D Basement and Carpark Plan	24.2.2020	Gartner Trovato Architects
DA-04 F Ground Floor Plan	24.4.2020	Gartner Trovato Architects
DA-05 D Level 01 Floor Plan	24.2.2020	Gartner Trovato Architects
DA-06 D Level 02 Floor Plan	24.2.2020	Gartner Trovato Architects
DA-07 D Elevations North East and North West (including External Finishes)	24.2.2020	Gartner Trovato Architects
DA-08 D Elevations South East and South West (including External Finishes)	5.12.2019	Gartner Trovato Architects
DA-09 B Sections A+B+C	24.7.2019	Gartner Trovato Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SW1 Stormwater Management Plan	24.6.2019	Barrenjoey Consulting Engineers
SW2 Stormwater Management Detailing 1	24.6.2019	Barrenjoey Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Access for People with a Disability Compliance Report 219153	17.7.2019	Accessible Building Solutions
Building Code of Australia Report 19-213367	21.7.2019	Philip Chun Building Code Consulting
Arboricultural Impact Assessment	June 2019	Urban Forestry Australia
Geotechnical Investigation Report J2256	26.7.2019	White Geotechnical Group Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent. For the purpose of conditions "interim / final" allows for the Principal Certifying Authority to select suitable timing or phase to achieve satisfactory completion and practical co-ordination of works.

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-L01 Landscape Plan	9.8.2019	Trish Dobson Landscape Architecture
DA-L02 Planting Schedule + Tree Retention	9.8.2019	Trish Dobson Landscape Architecture
DA-L03 Front Elevation + Specifications	9.8.2019	Trish Dobson Landscape Architecture

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.

## 2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	21.9.2019

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

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

## 3. Approved Land Use

Nothing in this consent shall authorise the use of site / building structures as detailed on the approved plans for any land use of the site beyond the definition of a residential care facility.

***"residential care facility is residential accommodation for seniors or people with a disability that includes—***

*(a) meals and cleaning services, and*

*(b) personal care or nursing care, or both, and*

*(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility."*

(as defined by State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004)



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) Where applicable, BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Where applicable, residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the

footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 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 a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) All sound producing plant, equipment, machinery or fittings that are permanent fixtures for the building and their ongoing use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room (s) consistent with the Environment Protection Authority's NSW *Industrial Noise Policy* and/or *Protection of the Environment Operations Act 1997*.

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

#### 6. **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.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure minimum impact of construction activity on local parking amenity (DACTRBOC1)

#### 7. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to

and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

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

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site (DACTRBOC2)

## **FEES / CHARGES / CONTRIBUTIONS**

### **8. Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$119,492.89 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 2019. The monetary contribution is based on a development cost of \$11,949,289.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate

where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

#### **9. 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 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, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

#### **10. Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$40,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

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

11. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's PITTWATER DCP21, MANAGEMENT 2003.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows and the compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

12. **Geotechnical Report Recommendations Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical dated 26/7/19 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **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 RMS 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.

14. **Boundary Fencing**

Any replacement boundary fencing, if required shall be at the applicants expense and 'lapped and capped' timber palings or a similar standard, and in consultation with the adjacent affected property owner where required by the *Dividing Fences Act 1991*.

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

Reason: To ensure maintain privacy and minimize impacts upon adjoining land.

15. **Boundary Identification Survey**

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

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the



issue of any Construction Certificate.

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

**16. On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's PITTWATER DCP21, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineers, drawing number SW1DA and SW2DA, dated 24/6/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

An Application for the stormwater drainage works to be approved within Darley Street East Roadway, including engineering plans is 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 the retaining walls through the nature strip and driveway crossing which are to be generally in accordance with the Development Application, Concept Drainage Plan by Barrenjoey Consulting Engineers (SW1DA, SW2DA) and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy. The plan shall be prepared by a qualified civil engineer.

The design must include the following information: The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

**18. Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority 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.

19. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

20. **Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

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

Reason: To ensure geotechnical risk is managed appropriately.

21. **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 and private properties 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.

Reason: Protection of Council's and Private Party's Infrastructure during construction.

22. **Compliance with Standards**

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

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

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

23. **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 an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no

access across public parks or reserves being allowed;

- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

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. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site. (DACTRCPC1)

## 24. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Council Development Control Plan -

*Waste Management* requirements, including a Waste Management Plan, to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Council Development Control Plan requirements 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.  
(DACWTC01)

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 25. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority 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. Including but not limited to, subject to the direction of the Certifying Authority:

- No.22 Darley Road East;
- No.28 Darley Road East; and
- No.1 Seabeach Avenue.

The dilapidation report is to be prepared by a suitably qualified person and the extent of detail should be appropriate to the scope of works required potentially affecting adjacent land. A copy of the report must be provided to Council, the Principal Certifying Authority 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 Certifying Authority 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 Certifying Authority prior to the commencement of any works on site.

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

### 26. **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.

**27. Tree trunk, branch and root protection**

- (a) Existing trees which must be retained
  - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
  - ii) Trees located on adjoining land
- (b) Tree protection
  - i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
  - ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
  - iii) All tree protection to be in accordance with the recommendations of the Arboriculture Impact Assessment dated June 2019 prepared by Urban Forestry Australia and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
  - iv) All tree pruning within the subject site is to be in accordance with relevant local planning requirements and AS 4373 Pruning of amenity trees
  - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

**28. Project Arborist**

The following tree management / landscape requirements apply:

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboriculture Impact Assessment dated June 2019 prepared by Urban Forestry Australia and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

**29. 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. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly (DACTRDP1)

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**30. Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at

all times during the course of the work.

Reason: Public Safety.

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

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

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

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

32. **Notification of Inspections**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages: (a) Installation of Silt and Sediment control devices

- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

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. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

33. **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 Principal Certifying 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

34. **Vehicle Crossings**

The provision of one vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal High and specifications. 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.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

35. **Maintenance of Road Reserve**

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

Reason: Public Safety.

36. **Temporary Sediment**

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Reason: To reduce erosion and prevent sediment runoff into public assets

37. **Site Entry Access way**

An all-weather access way at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.

Reason: To reduce sediment being taken offsite

38. **Cleaning of Vehicles Leaving Site**

Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

Reason: To reduce sediment being taken offsite

39. **Stormwater Pipeline Construction**

Where connection to Council's nearest stormwater drainage system is required, being Darley Street East, the applicant shall construct the pipeline in accordance with AUSPEC specification for engineering works (see [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)) and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels.

All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

40. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

An Acid Sulfate Soils Management Plan is to be prepared by a suitably qualified geotechnical engineer and in accordance with the Acid Sulfate Soils Manual (ASSMAC, 1998) and submitted to the Council for review.

Reason: To protect the environment and private & public infrastructure (DACHPEDW5)

**41. Notification about rock-breaking**

If rock-breaking is associated with the development of the site, it must only occur between the hours of:

· 9.00 AM – 5.00 PM on weekdays (Monday – Friday).

Rock-breaking activities must not occur on weekends or public holidays. Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public. (DACHPEDW6)

**42. Implementation of Demolition Traffic Management Plan**

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

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project. (DACTREDW1)

**43. 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 RMS 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.

(DACTREDW2)

44. **Waste/Recycling Requirements**

During demolition and/or construction the proposal/works shall implemented and generally consistent with the submitted Waste Management Plan, to the satisfaction of the Principal Certifying Authority.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

45. **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. (DACWTE02)

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

46. **Landscape completion certification**

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

47. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and 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: To ensure compliance with the requirement to retain and protect significant planting on development sites.

48. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant 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 NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements 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 restriction.

Works as executed drawings and the design engineers certification of the On site stormwater detention system is to be provided with the submission of the Legal Documents approval to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

50. **Regulating Authority of food operations notification**

Prior to the issue of the Occupation Certificate, the proprietor of the food business must notify the relevant regulatory authority of their business operations. Registration with that authority must be completed and submitted prior to commencement of trade.

Reason: To ensure compliance with legislation and the Australia and New Zealand Food Standards Code.

51. **Garbage and Recycling Facilities**

All internal walls of the storage area 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.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.  
(DACPLF03)

52. **House / Building Number**

The building street address number is to be affixed to the fence / pedestrian entry to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

53. **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) <<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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

54. **Traffic Signal System**

To prevent conflicting vehicle flows on the internal driveways and basement garage ramp, a traffic signal system must be installed at each vehicle entry point, designed to warn drivers about to enter the road, ramp or driveway of any conflicting vehicle approaching.

The signal system must;

- be clearly visible from entrances,
- is to clearly indicate to an approaching driver, by way of red light or wording, that an opposing vehicle has entered the driveway or ramp,
- Incorporate linemarking to delineate traffic flow and nominate waiting bay locations to allow vehicles to overtake another.

Details of the system, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Accredited Certifier that the system has been installed and operating as designed, in accordance with the requirements of this condition, prior to the issue of any Occupation Certificate issued for the development.

Reason: To ensure no vehicle conflicts within the basement carpark. (DACTRFPOC1)

55. **Accessible Parking Spaces**

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

Reason: To ensure compliance with Australian Standards. (DACTRFPOC2)

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

The proposal shall be constructed in accordance with Northern Beaches Development Control Plan – Waste Management

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

57. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

58. **Landscape maintenance**

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

Reason: To maintain local environmental amenity.

59. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**

**Steven Findlay, Manager Development Assessments**

The application is determined on //, under the delegated authority of:

**Steven Findlay, Manager Development Assessments**