

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1280
Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 3B DP 164259, 62 Beaconsfield Street NEWPORT NSW 2106 Lot 4A DP 159498, 11 Queens Parade NEWPORT NSW 2106 Lot 3A DP 164259, 9 Queens Parade NEWPORT NSW 2106 Lot 2 DP 209106, 7 Queens Parade NEWPORT NSW 2106 Lot 5A DP 158658, 13 Queens Parade NEWPORT NSW 2106 Lot 4B DP 159498, 60 Beaconsfield Street NEWPORT NSW 2106
Proposed Development:	Demolition works and construction of a multi unit housing development with associated carparking and landscape works.
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Adcock Group Management Pty Ltd
Applicant:	Stable Innovations Pittwater Shores Pty Ltd
Application Lodged:	14/11/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	21/12/2019 to 01/02/2020
Advertised:	21/12/2019
Submissions Received:	19
Clause 4.6 Variation:	4.3 Height of buildings: 12.9%
Recommendation:	Approval
Estimated Cost of Works:	\$ 19,213,942.00

Executive Summary

The proposal involves demolition works and construction of a multi-unit housing development,

comprising 18 x 3-bedroom dwellings with basement car parking for 43 vehicles and associated landscaping at 60-62 Beaconsfield Street and 7-13 Queens Parade, Newport.

The assessment has found that the proposed development is satisfactory in relation to built form, character and streetscape when assessed against the requirements for the Newport Locality under Pittwater 21 Development Control Plan and the internal and external residential amenity.

The applicant has lodged a request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 for a variation to the development standard for building height. The height variation is up to 1.1m above the allowable height of 8.5 m, representing a variation of 12.9%, which relates to the canopies/pergolas over the roof top terraces. The variation is considered acceptable largely due to the light weight nature of the structures, which are integral to the design and provide weather protection for residents. The structures are not considered to result in excessive bulk and scale, will be satisfactory in the streetscape and will not result in adverse shadow, views or amenity impacts on surrounding properties.

The public exhibition of the application resulted in 19 individual submissions being received, all of which raised concerns with the proposed development. The majority of the submissions raised issues of additional traffic, construction related impacts, non-compliance with building height, building envelope and setback controls and impacts on adjoining residential development (privacy, solar access). The issues raised in the submissions have been addressed in the "Public Notification" section of this report and in summary, they do not warrant refusal or re-design of the proposal. Suitable conditions have been imposed where appropriate to address the concerns.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of the assessment, including an assessment of all variations to the planning controls, is fully detailed within this report.

Based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for demolition works and construction of Multi Unit Housing Development with associated carparking and landscaping. Specifically, the proposed development involves:

- Demolition of all existing structures on site.
- Construction of a townhouse style building 18 x 3-bedroom dwellings with basement car parking for 43 vehicles.
- All of the townhouses have pedestrian access at ground floor level. Lifts provide access within all of the dwellings. Living areas are provided on the upper level of the dwellings with access to a rooftop terrace for additional private open space.
- Carparking is provided in two basement areas, one with access from Beaconsfield Street and the other with access from Queens Parade. Each dwelling is provided with garage parking for two vehicles. The basements also provide visitor car parking for 7 vehicles (including 2 disabled spaces) and a car wash bay. The basement also houses a bin storage room, a bulky goods storage room and a plant room.
- The proposal includes tree removal and landscaping works including works within the road reserv

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 - 4.6 Exceptions to development standards
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)
 Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)
 Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 3B DP 164259 , 62 Beaconsfield Street NEWPORT NSW 2106 Lot 4A DP 159498 , 11 Queens Parade NEWPORT NSW 2106 Lot 3A DP 164259 , 9 Queens Parade NEWPORT NSW 2106 Lot 2 DP 209106 , 7 Queens Parade NEWPORT NSW 2106 Lot 5A DP 158658 , 13 Queens Parade NEWPORT NSW 2106 Lot 4B DP 159498 , 60 Beaconsfield Street NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of six (6) individual lots, which are to be amalgamated. The amalgamated lots are located

on the northern side of Beaconsfield Street and extends through to the southern side of Queens Parade.

The site is irregular in shaped with total site area of 3,928m², and frontage of 62.385m to Beaconsfield Street to the south and another frontage of 80.465m to Queens Parade to the north. The eastern side boundary is irregular and has a total length of 85.155m. The western side boundary has a length of 46.355mn.

The site is currently occupied by a 40-place child care centre plus 2 x 2-bedroom dwellings on 7 Queens Parade, and five dwelling houses on the remaining allotments. The existing buildings are 1 and 2 storeys in height. The area around the buildings is landscaped and the site contains a number of mature trees.

The immediate surrounding area contains a mix of residential development in the form of single dwellings, multi-storey residential flat buildings and townhouses with each building typology varying significantly in terms of height, massing and design.

Neighbouring development consists a local shopping centre to the west, and a townhouse development and a dwelling house adjoins the site to the east.

Other adjoining development within the Locality consists of:

- Newport Arms Hotel (on Kalinya Street to the west)
- Newport Public School (100m to the east)
- Automotive repairs (on the north-eastern corner of Kalinya Street and Queens Parade)
- Metro Mirage Hotel (on the north-western corner of Kalinya Street and Queens Parade)
- Trafalgar Park (100m to the north-east)
- Dearin Reserve (100m to the north-west)
- Newport Anchorage Marina (on Beaconsfield Street to the south)

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent/relevant applications for this site.

The land has been used for residential dwelling-house and child care centre purposes for an extended period of time.

Pre-lodgement Meeting

A pre-lodgement meeting was held with Council on 24 July 2019 in relation to the current proposal. Council raised concerns with the proposal in relation setback requirements to the western boundary, as well the front setbacks to Beaconsfield Street and re-orientation of Dwellings 11 to 16 to provide a more stepped design to break-up the bulk of the built form.

The current application has responded to the issues raised, with required setback provided and the orientation of the proposed dwellings are such that the bulk and scale have been minimised and landscaped area maximised.

Development Application History

The development application was lodged with Council on 14 November 2019. During the assessment of the application, the applicant amended the plans to address the following concerns raised:

- Waste - Amending the bin room to improve access for future residents
- Development Engineering - To address impacts of the footpath widening on existing trees
- Urban Design - Improve landscaped terrace relationship (over basement parking) adjacent to side boundaries

The following is a list of the amendments made to the proposal in response to the issues above and design refinements:

- Revised waste collection area on Beaconsfield Street and revised bin & bulk storage within the car park
- Additional waste collection area on Queens Parade and new bin and bulk storage within the car park
- Townhouse 2 & 3 planted area above basement car park adjacent to the rear boundary was redesigned to reduce bulk and built form viewed from No. 58 Beaconsfield Street
- Basement car park along western boundary pulled back in line with 3.0m building setback
- Western elevation corrected to show existing building outlines
- Western boundary walls and landscaping revised
- Footpath on both streets widened to 1.5m
- Additional pop-out showers at Level 1 Townhouse 8 & 9
- Dumbwaiters shown on Townhouse 11 to 18 roof terrace
- Revised landscape area as a result of all the changes

The amended plans represent a better outcome and have reduced the associated impacts. In this respect, the amended application differed only in minor and improved respects from the original application, and did not result in greater environmental impact. Therefore, further notification and advertising was required.

This assessment report is based on the latest amended plans and information submitted by the applicant.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
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&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 92</u> of the EP&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>Clause 98</u> of the EP&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>

Section 4.15 Matters for Consideration'	Comments
	<p>Clause 98 of the EP&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>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>	<p>(i) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>The proposed development will not contribute to any unreasonable adverse environmental impacts to the neighbouring buildings and will provide additional housing opportunities to a site that is capable of providing medium density forms of residential accommodation.</p> <p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

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 19 submission/s from:

Name:	Address:
Councillor Kylie Ferguson (Councillor) Mrs Kylie Ann Ferguson	C/- Northern Beaches Council 725 Pittwater Road DEE WHY NSW 2099
Ms Lisa Lee Butler	9 / 14 Queens Parade NEWPORT NSW 2106
Ms Susan Louise Coleman	1 / 75 Beaconsfield Street NEWPORT NSW 2106
Ms Wendy Anne Batchelor	5 / 75 Beaconsfield Street NEWPORT NSW 2106
Mrs Christine Joy Atkinson	13 Beaconsfield Street NEWPORT NSW 2106
Diane Hillier	19 A Beaconsfield Street NEWPORT NSW 2106
Ms Judith Ann Albrecht	7 / 75 Beaconsfield Street NEWPORT NSW 2106
Mrs Susan Maria Trodd	6 / 75 Beaconsfield Street NEWPORT NSW 2106
J R Brady	58 Beaconsfield Street NEWPORT NSW 2106
Mr Darryl John Pike	Po Box 1318 MONA VALE NSW 1660
Mr David Harpur	15 / 14 Queens Parade NEWPORT NSW 2106
Mr Manus John McFadyen	8 / 4 Queens Parade NEWPORT NSW 2106
Mrs Wendy Joy Janssens	PO Box 624 NEWPORT BEACH NSW 2106
Ms Janet Carlen	2 / 15 - 17 Queens Parade NEWPORT NSW 2106
Mrs Carolyn Mary Kinner	3 / 75 Beaconsfield Street NEWPORT NSW 2106
Newport Residents Association	PO Box 1180 NEWPORT BEACH NSW 2106
Mr Peter John Middleton	PO Box 1055 NEWPORT BEACH NSW 2106
Mr Stefan Raymond Albinski	4 / 75 Beaconsfield Street NEWPORT NSW 2106
Mrs Cindy Lee Venables	2 / 75 Beaconsfield Street NEWPORT NSW 2106

The matters raised within the submissions are addressed as follows:

- **Non-compliant and Excessive Height**

The submissions raised concerns that the height of the proposal is unreasonable and out of context and would result in additional impact when viewed from surrounding residential properties.

Comment:

This matter has been addressed under the section '*Detailed Assessment of the Variation to Clause 4.3 - Height of Buildings Development Standard*' under the PLEP 2014 section of this report. In summary, the development was assessed against the Height of Buildings Development Standard under the PLEP 2014 and has been appropriately considered in relation to the requirements of Clause 4.6 of the PLEP 2014, wherein it was found that the development is consistent with the objectives of the Development Standard and the objectives of the R3 Zone.

This matter does not warrant the refusal of the application.

- **Acoustic Privacy**

Concern is raised that the increased density of the development above the existing situation will

have an adverse impact upon the acoustic privacy of neighbouring dwellings.

Comment:

The development accommodates a residential use which is not considered to unreasonably impact neighbouring residential properties with regard to noise given the R3 Medium Density zone and the nature of surrounding development. The private open spaces and the roof top terraces in the development are sufficiently setback and screened from neighbouring residential properties to minimise residential noise emissions and any noise generated by plant such as air conditioning.

This matter does not warrant the refusal of the application.

- **Traffic safety and congestion**

Several submissions received have raised concerns that the development will increase the number of vehicles on the local road network, thereby exacerbating existing traffic, congestion and degrading traffic and pedestrian and school children's safety. Particularly given there are already traffic issues on Beaconsfield Street, which are becoming worse. There is a constant stream of traffic coming around the corner of Kalinya /Beaconsfield Streets. It is becoming quite dangerous at times with the speed of traffic and car parking. The buses frequently go up and down the road and their timetable should not be disrupted by the comings and goings of the construction site. The street is already struggling with traffic issues and this development will only add to the problem.

A number of submissions raised issues with the width of carriageways, the proximity to Newport Public School, and the location of traffic lights on Barrenjoey Road.

Comment:

The provision of carparking and traffic safety have been addressed by Council's Traffic Section in the referrals section of this report.

In summary, the proposal complies with the carparking requirements of P21DCP, which will minimise the need for occupants and visitors of the development to park on the street.

In terms of traffic congestion and safety, Council's Traffic Engineer has reviewed the application, which includes a review of the applicants traffic report and raises no objection to the development.

The proposed development will reduce traffic movements and the demand for on-site parking compared to the current situation relating to the existing child care centre on site, which will be removed, and the reduction in the number of driveway crossings and the provision of on-site car parking in accordance with P21DCP.

Issues raised in relation to the use of Beaconsfield Street as a through-road for drivers due to the traffic lights is not a matter to be considered as part of this application as is beyond the matters for consideration under s.4.15 of the Environmental Planning and Assessment Act, 1979.

This matter does not warrant the refusal of the application.

- **Impact from excavation and construction works**

Concerns are raised that the excavation and construction of the basement car park will result in damage to adjoining properties.

Comment:

A Geotechnical Engineers Report was submitted with the application addressing excavation and construction and provides recommendations for protecting adjoining properties. Those recommendations will be imposed as conditions of consent. Furthermore, Dilapidation Surveys will be required to be undertaken in relation to adjoining properties (prior to the issue of a Construction Certificate) which are located within 2.0m of the excavation. This requirement is imposed by way of condition.

This matter does not warrant the refusal of the application.

- **Sunlight Access**

Concern is raised that the proposed development will have an adverse impact upon access to sunlight on the adjoining property at No. 58 Beaconsfield Street.

Comment:

Clause 1.4 of P21DCP requires the retention of 3 hours of sunlight to the principal living areas and main private open space of adjoining dwellings in mid-winter.

The control also provides the following variations which are relevant to the proposal:

Where the following constraints apply to a site, reasonable solar access to the main private open space and to windows to the principal living area will be assessed on a merit basis:

- *where there is adverse slope or topography*
- *where there is existing vegetation, obstruction, development or fences that overshadow*

The shadow diagrams provided indicate the shadowing effects of the development in relation to the neighbouring properties. The shadow diagrams indicate that No.58 Beaconsfield Street will experience some shadows being cast on the rear (north) elevation of the dwelling from 1.00pm in midwinter. However, the property will not be effected by the proposed development from 9.00am – 1.00pm. There will be some overshadowing of that property from 15 Queens Parade at 9.00am.

The impact on solar access is largely unavoidable due to the location of the dwelling at No. 58 Beaconsfield Street being towards the rear of that site, providing a substantial front setback of 16.0m (as shown in the photo below). Furthermore, the topography is such that the property is sited well below the subject site, a difference in level of over 1.0 metre at the common boundary. In this circumstance, the proposal is in accordance with the variation control which refers to “*adverse slope or topography*”.



Aerial view of 58 Beaconsfield Street (showing the location of the dwelling and vegetation at the rear)

Finally, it is noted the rear yard of 58 Beaconsfield Street is overshadowed by existing vegetation, whilst the front yard retains generous solar access. This circumstance will not be altered as result of the proposed development.

This issue does not warrant the refusal of the application.

- **Visual Privacy**

Concern is raised that the location of roof top terraces will have privacy impact on the adjoining properties.

Comment:

Pursuant to clause C1.5 of the P21DCP, private open space, recreation areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. Elevated decks, verandas and balconies should incorporate privacy screens where necessary and should, where possible, be located at the front or rear of the building. Direct views from an upper level of a dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The proposed development maintains the orientation and relationship of the residential dwellings. The

roof top terraces have been oriented towards the street or the central common open space and away from neighbouring properties. The development provides planter boxes around the rooftop terraces to avoid direct overlooking. The planter boxes are 1.5m – 1.7m wide (to the external face of the structure) and 1.2m in height (from the terrace floor level to the top of the structure). The planter box structures restrict lines of sight into neighbouring properties.

This issue does not warrant the refusal of the application.

- **Insufficient community consultation**

Concern is raised that the development has not undergone sufficient community consultation. In particular, concern is expressed that details of the application was not notified for a sufficient time period over Christmas.

Comment:

The notification associated with the subject DA was extended to all properties that were directly impacted by the development. Other residents were captured by the advertisement in the Manly Daily.

The public exhibition of the application was in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Northern Beaches Community Participation Plan and also included advertising in the Manly Daily.

Whilst the proposal would normally require a 21day notification period, this was extended to account for the Christmas period from 20 December 2019 till 10 January 2020, this notification period was then further extended till 1 February 2020.

Therefore, this issue should not be given determining weight.

- **Setbacks to 58 Beaconsfield Street**

Concern has been raised that the setback of the proposed to 58 Beaconsfield Street is inadequate. This concern was also raised by Council's urban designer at the initial stages of the assessment.

Comment:

To address this concern, the proposal has been amended in consultation with Council's Urban Design Officer to lower the structures near the boundary with 58 Beaconsfield Street.

The proposal provides for carparking adjacent to the rear boundary of 58 Beaconsfield Street. The carparking is set below the level of the subject site at RL20.3, such that it is approximately at the same level as the rear yard of 58 Beaconsfield Street.

The proposal as originally submitted to Council, proposed that a garden terrace extend over the carparking at a level of RL24.6, i.e. 4.3m above the level of the rear yard of 58 Beaconsfield Street. The proposal (as amended) steps the raised landscaped area down as it nears the boundary with 58 Beaconsfield Street. Immediately adjacent to the boundary, the proposal is at ground level, then there is a planter box with cascading plants creating a green wall up to RL23.7, as shown in the following drawing:

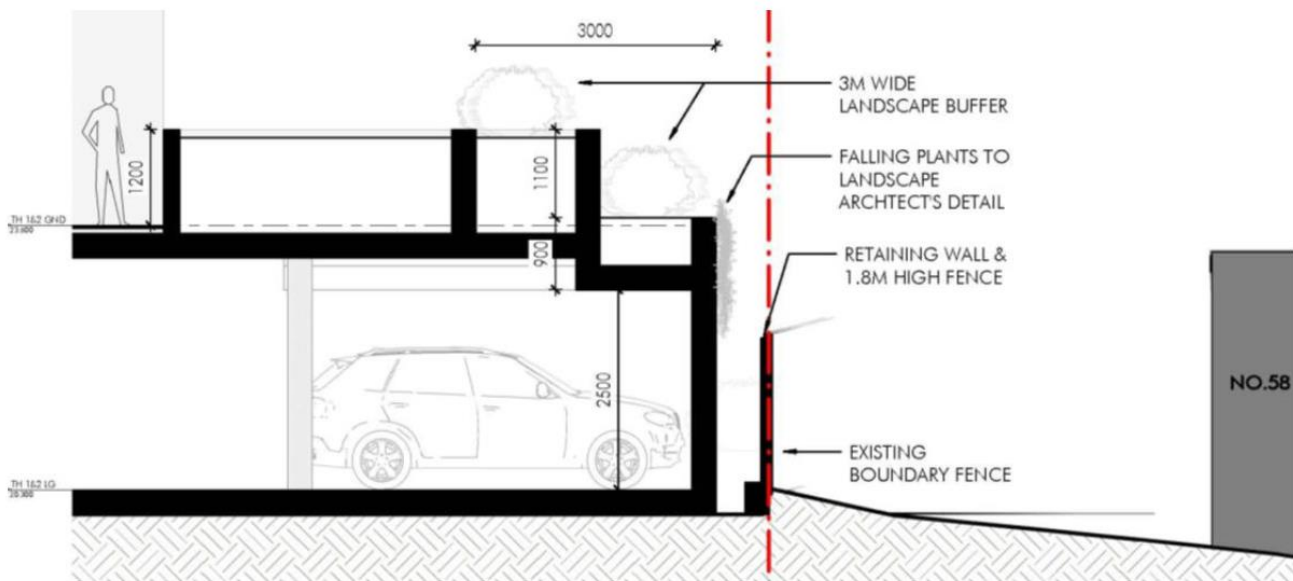


Figure 1 - Showing the relationship of the proposed development with the boundary of No. 58 Beaconsfield Street, (Source architectural plans as amended, prepared by Nettelontribe)

The concern raised is noted and is addressed in the amended plans.

- **Density and Scale of the Development**

Concern has been raised that the proposed development is an overdevelopment of the site and that the scale of the proposed buildings is disproportionate to the land size and inconsistent with adjoining and nearby residences.

Comment:

The proposal provides for a housing density that is less than that which is permitted by the relevant planning controls. In particular, clause 4.5A(4) of PLEP 2014 permits a housing density of 1/200m² of site area or 19 dwellings. The proposal has a housing density of 1/218.2m² or 18 dwellings.

The R3 Medium Density Residential zone envisages the construction of medium density housing, such as the subject development, as a key built element of the desired future character of the zone to provide a variety of housing types to meet the needs of the community within a medium density residential environment.

The development, as proposed is considered to respond to the size, topographical and vegetative constraints of the subject site such that it appropriately addresses and enhances the quality, as well as further establishing the medium density identity of the area.

Through the provision of progressive setbacks, effective articulation and the use of a variety of materials, the development is considered to contribute towards the medium density character of the streetscape and neighbourhood without physically or visually dominating the environment.

This issue does not warrant the refusal of the application.

- **Excessive Tree Removal**

Concern has been raised that the proposed development will result in the removal 85 of 115, or 74%, of existing trees. Of the 75 trees on the site, 73 (95%), will be removed. These will include six trees assessed in the arborist's report as having high landscape significance.

Comment:

The issue of tree removal has been addressed in the referrals section of this report by Council's Landscape Officer. In summary, the proposal retains a number of significant trees within the site and tree replacement is proposed which considered to be satisfactory.

This issue does not warrant the refusal of the application.

- **Not consistent with the requirements of Pittwater 21 DCP**

The submissions received have raised concerns that the development does not comply with the following clauses of the P21 DCP:

- 1. Does not comply with Side and Front Setback controls;***
- 2. Not compatible with the surrounding land uses***
- 3. Exceeds the maximum envelope***

Comment:

The issues raised have been discussed at length in the Pittwater 21 DCP section of this report. In summary, it has been found that the development is consistent with the character of the area and the non-compliance in relation to setbacks and building envelopes is supported in this instance.

Therefore, the specific issues raised in relation to DCP should not be given determining weight.

- **Impact of construction on existing residents (noise, dust, amenity)**

Concern is raised regarding excavation and construction impacts associated with the development and the potential impact on the delivery of trucks during school hours. Concerns have been raised with regards to the proposed construction hours and its potential impact on the operation of the school and other developments within the locality.

Comment:

With regards to excavation and construction management, appropriate conditions have been included in the draft set of consent conditions.

The construction hours are standard hours for all development which are in accordance with the interim construction noise guideline established by NSW Department of Planning, Industry and Environment. Construction hours have been included in the conditions.

Therefore, this issue should not be given determining weight.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>

Landscape Officer	<p>The proposal indicates amalgamation of several existing Lots to create a development area for the proposed townhouse development.</p> <p>The sites are noted as being in the existing Zone R3 - Medium density residential. The current Lots are predominately single residential development, with the inclusion of a Childcare Centre.</p> <p>The proposed design attempts to retain vegetation within the site, with two trees indicated in the Arborist's Report as High landscape significance trees being retained. The pattern of development enables landscape components, including trees, to permeate through the site,</p>
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Internal Referral Body	Comments
	<p>similar to the current pattern. This approach is supported in principle, however removal of four trees indicated in the Arborist's Report as High landscape significance, is noted. The majority of trees on the site are, however, exempt species under Pittwater DCP. A summary of tree removals and replacement is included below.</p> <p>The proposed landscape plan indicates replanting of 33 non- exempt trees on the site.</p> <p>Additional landscape planting is proposed in the road reserve on both the Beaconsfield Street and Queens Parade frontages.</p> <p>Four native street trees with native understorey planting are proposed in the Beaconsfield Street road reserve. It is recommended that two additional street trees be included along this frontage west of the driveway to improve the streetscape frontage and maintain the existing sense of green along the verge.</p> <p>Extensive native understorey and tree planting is proposed to be incorporated on the Queens Parade road reserve to supplement the significant native trees growing in the road reserve.</p> <p>The proposed planting concept is supported, however, comment from roads assets section should be sought. If approved, maintenance conditions are recommended to ensure that the development is responsible for ongoing maintenance, or replacement of plants in the event of service access requirements, rather than Council.</p> <p>In view of the above, no objections are raised with regard to landscape issues, subject to conditions as recommended.</p> <p>Tree Removals/ Retention: On Site - 58 Exempt trees removed 12 Non- exempt trees removed (4 High landscape significance)</p> <p>2 Non-exempt trees retained (2 High landscape significance) Road Reserve - 7 Exempt trees removed 2 Non exempt trees removed (1 Moderate landscape significance) 21</p> <p>Trees retained (11 High significance; 3 Very High significance)</p> <p>Tree Replanting: On Site - 33 Non-exempt trees</p> <p>Road Reserve - 5 Non-exempt trees</p>
NECC (Development)	

Internal Referral Body	Comments
Engineering)	<p><u>Stormwater comments</u></p> <p>The submitted stormwater management plans prepared by NB Consulting Engineers is considered to meet the requirement of Clause B 5.7 of Pittwater 21 DCP 2014.</p> <p><u>Geo-technical comments</u></p> <p>JK Geotechnics report suggest that an "Acceptable Risk Management" level is achievable.</p> <p><u>Driveway and access comments.</u></p> <p>The existing road and footpath amenities will require to be upgraded. Council traffic Team has deemed the access arrangement for the development to be unacceptable. As a result Council Development Engineers is unable to support the application.</p> <p>No Development Engineering objection subject to conditions.</p>
NECC (Water Management)	<p>This application has been assessed under Pittwater DCP B5.9 - Water Quality Pittwater DCP B8.2 - Sediment and Erosion Control</p> <p>The applicant provided additional notes and a MUSIC model, which satisfied initial concerns about the methodology for stormwater treatment. While the proposed treatment train does not maximise opportunities to reduce runoff through evaporation and evapotranspiration (and to some degree through infiltration), the proposed system using a suspended bio-retention basin and SPEL filters is now regarded as satisfactory. The information about how maintenance of the basin and filters is expected to occur should be included in the operation and maintenance manual for each, as it will be of significant use to the strata manager/committee.</p> <p>Sediment and erosion controls must be installed prior to demolishing any buildings on site and maintained until all work is complete and groundcover re-established.</p>
Strategic and Place Planning (Urban Design)	<p>The amended drawings have addressed the issues mentioned below by cutting back the car park basement structure from the western boundary. The visual impact of the car park structure on the mid- eastern boundary has been reduced by introducing stepped planters.</p> <p>Urban Design comments made previously: The applicant should address the following issues:</p> <ol style="list-style-type: none"> 1. The car parking semi-basement structures stick out of the natural ground levels by more than one metre and encroach into the side boundary setbacks of 3m and rear boundary setback of 6.5m on the western and mid-eastern boundaries respectively. 2. Sun access to the back yard of neighbouring house no.58

Internal Referral Body	Comments
	<p>Beaconsfield Street has been compromised.</p> <p>3. There is one existing tree kept in the central courtyard. All the existing street trees to Beaconsfield Street will be removed. Current proposal will make the Beaconsfield Street presentation completely bare of mature trees. Proposed road verge landscaping and trees to be planted on the public domain area will take years to give the current verdant streetscape character.</p>
Traffic Engineer	<p>The application proposes the removal of 7 x dwellings and a 40 place child care and the construction of 18 townhouses.</p> <p>Traffic: The anticipated change of use is expected to provide significant reductions to the traffic being generated from this site. No objections are raised.</p> <p>Parking: Parking numbers are compliant with the DCP. No objections are raised.</p> <p>Access and Car Park: The access arrangements are deemed acceptable with the amendments provided by the applicant.</p> <p>The provision of the 'No Parking' space adjacent to the driveway is deemed suitable as it will enable the waiting of vehicles and also assist with the drop-off of passengers to the precinct.</p> <p>Further, additional swept path analysis is required demonstrating that all vehicles can enter and exit each designated space and enter and leave the site in a forward direction.</p> <p>Servicing: On-street servicing is deemed acceptable. The applicant will be conditioned to provide a signage plan to restrict parking during waste collection days. This will require approval of the Local Traffic Committee prior to occupation certificate.</p> <p>Conclusion: No further objections are raised.</p>
Waste Officer	No objection subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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 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.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1054289M and 11 November 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0004346360 and 24 October 2019).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	64

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

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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	8.5m	Dwellings -8.5m Canopies above the rooftop terraces - 9.6m	N/A 12.9%	Yes
Clause 4.5A (4) Density controls for certain residential accommodation	1 dwelling per 200m ²	1 dwelling per 218.2m ²	N/A	Yes

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	No
4.5A Density controls for certain residential accommodation	Yes
4.6 Exceptions to development standards	Yes
5.12 Infrastructure development and use of existing buildings of the Crown	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of Non-compliance:

Development Standard:	Height of Buildings
Requirement:	8.5m
Proposed:	Dwellings - 8.5m Canopies above rooftop terraces - 9.6m
Percentage variation to requirement:	12.9%

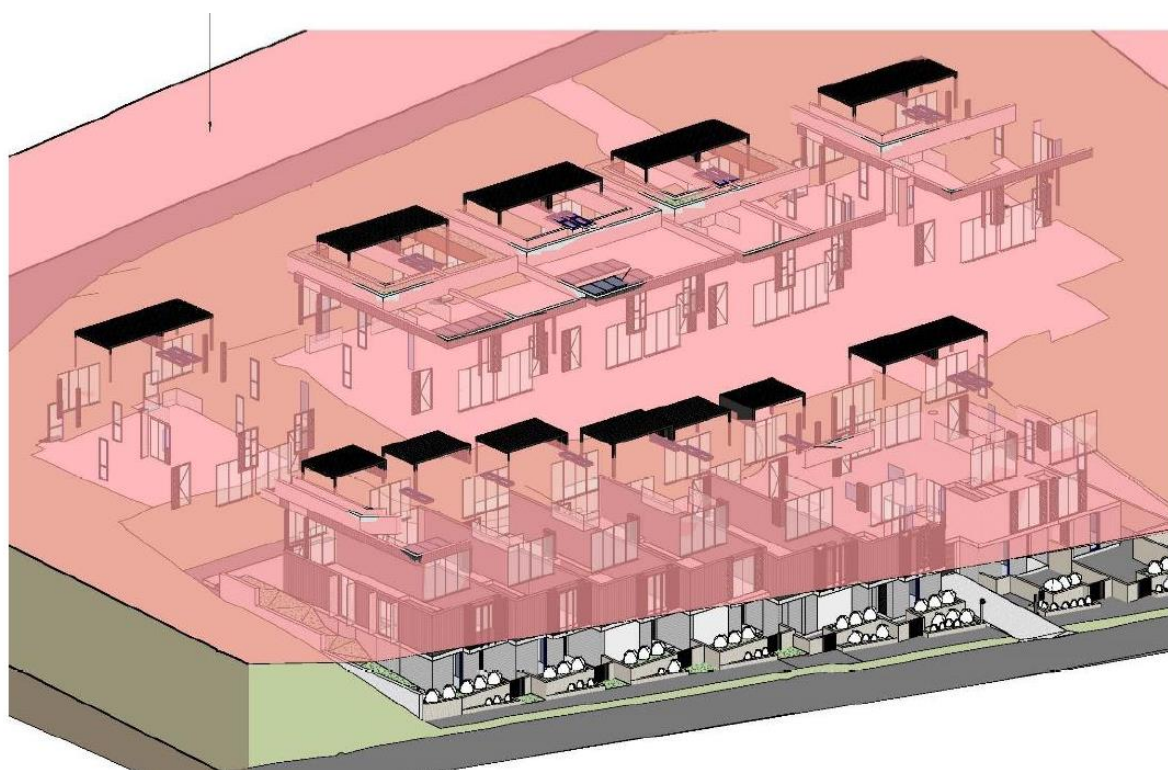


Figure 2 - Building Height Non-Compliance (Source: Statement of Environmental Effects, prepared by Symons Goodyer)

Assessment of Request to vary a Development Standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to Development Standards:

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

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

(2) *Development consent may, subject to this clause, be granted for development even though the*

development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not

defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

Applicants Statement:

The applicants written request argues, in part:

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

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

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

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

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

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

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

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R3 Medium Residential zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the PLEP 2014 are:

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

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

Comment:

The development involves a scale, bulk and height which is considered to be appropriate to the existing or desired future character of the street and surrounding area.

The proposed building includes progressive setbacks and good levels of vertical and horizontal articulation, such that the resulting visual quality derived from the building alignments and proportions are consistent with surrounding development and complimentary to the zone.

The proposed built form and scale will define the public domain and contribute to the character of the streetscape, which predominantly features medium density housing of varying ages, scales, and styles.

The development is considered to satisfy this objective.

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

Comment:

The proposed height and scale of the development is consistent and compatible with the height and scale of surrounding and nearby development.

The building generally complies with the Height of Buildings development standard. The variations are minor and, because they do not cover a larger area of roof and are light weight in its appearance, they are not visually prominent and will not detract from the streetscape.

The development is considered to satisfy this objective.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The development is sited and designed to provide adequate sunlight, daylight and ventilation to habitable rooms during midwinter, and does not contribute to any unreasonable overshadowing of adjoining development. As such, the proposal is consistent with the outcomes of the solar access development control and the proposal is supported in this regard.

The development is considered to satisfy this objective.

d) to allow for the reasonable sharing of views,

Comment:

The proposal will not result in any adverse view loss impacts that are visible from the neighbouring properties of the site. The development is satisfactory in terms of the view loss requirements with consideration given to the planning principles for view loss as per the *Tenacity v Warringah Council*.

The development is considered to satisfy this objective.

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

Comment:

The proposed development has been designed to step down with the slope of the land, which responds to the natural topography of the site.

The development is considered to satisfy this objective.

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

Comment:

Whilst the proposal results in the removal of a large of trees on the site, the proposed development has been designed to retain a number of canopy trees and the proposed landscaping will significantly enhance the natural environment. In this regard, the landscape design for the development includes a good level of replacement vegetation to contribute towards softening and alleviating the size and scale of the proposed building, without under-utilising or overcrowding the site, such that it impacts upon solar access of adjoining properties and which contributes to the landscape character of the streetscape and neighbourhood while providing for acceptable levels of internal and external amenity.

The development is considered to satisfy this objective.

Objectives of the Zone

The underlying objectives of the R3 Medium Density Residential zone are:

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

Comment:

The development will increase the housing stock of the area and provide a reasonable mix of town house types and sizes commensurate to a medium density residential environment.

The development is considered to satisfy this objective.

- *To provide a variety of housing types within a medium density residential environment.*

Comment:

The development provides 3 bedroom townhouses, which is considered to satisfy the provision of a variety of houses within the medium density residential environment of Newport.

The development is considered to satisfy this objective.

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

Comment:

The proposed multi-unit housing development will provide additional occupants to frequent local businesses within the Newport precinct. In this regard, the development will enable other land uses that provide facilities or services to meet the day to day needs of residents.

The development is considered to satisfy this objective.

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

Comment:

The proposed development does not provide any other land uses, therefore this objective is not applicable to the proposed development.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone.

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

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

Comment: The proposal is not likely to unreasonably disrupt existing drainage patterns and soil stability in the locality. In this regard, the applicant has submitted detailed hydraulic plans and calculations have been prepared by NB Consulting Engineers, which adequately addresses the requirement of this Clause.

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

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

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

Comment: The excavated material will be processed according to the Waste Management Plan for the

development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

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

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

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

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

(f) the likelihood of disturbing relics

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

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

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

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

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

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

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (Queens Parade)	3.0m - 6.5m	53.8%	No
	6.5m (Beaconsfield Street)	3.0m	53.8%	No
Rear building line	6.5m	N/A	N/A	N/A
Side building line	3.95m - 4.4m (east)	4.1m	6.8%	No
	4.25m - 4.8m (west)	2.0m - 3.0m	29.4% - 58.3%	No
Building	4.2m (east)	Within envelope	N/A	Yes

envelope	4.2m (west)	Outside envelope	75%	No
Landscaped area	50%	50.5% (including impervious areas <1.0m in width)	N/A	Yes
Density controls	Frontage minimum one- third the length of the longest side boundary	Frontages (62.385m and 80.465m) are greater than one-third the length of the longest side boundary (85.155m)	Yes	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.5 Dwelling Density and Subdivision - Medium Density Residential	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
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
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	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
B6.6 On-Street Parking Facilities	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	Yes	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
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.12 Landscaped Area - General	Yes	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D10.7 Front building line (excluding Newport Commercial Centre)

The control requires a 6.5m front building setback to both Queens Parade and Beaconsfield Street.

The proposal provides the following setbacks:

- Queens Parade - 3.0m to 6.5m (variation up to 53.3%)
- Beaconsfield Street - 3.0m (variation of 53.8%)

These areas of non-compliance are justified by the applicant, as follows:

"In establishing an appropriate front setback for the development of the site consideration has been given to the context relative to existing neighbouring development and to the desirability of providing a greater internal setback area within the site to enable the retention of existing significant canopy trees. On both street frontages the proposal provides front setbacks that provide a transition between the existing developments to the east and west of the site.

On Queens Parade, the neighbouring development to the west has a nil front setback. The proposal provides for a minimum front setback of 3.0m for the western portion of the site, graduating up to 4.0m, 5.0m and 6.5m across the site, such that at the eastern of the site a 6.5m front setback is provided that matches that of the neighbouring development.

On Beaconsfield Street, the neighbouring development to the west has a nil front setback. The proposal provides a 3.0m separation to that building on its western boundary and a series of stepped dwellings with a minimum front setback of 3.0m to Beaconsfield Street. At its eastern end the development is designed to transition to the single dwelling house scale of neighbouring development, with a building containing only two dwellings providing a front setback of 6.5m to 9.5m."

Despite minor areas of non-compliance, the setbacks provide consistency with adjoining development and provides sufficient space for landscaping of an appropriate scale to screen and soften the proposed built form, such that the protrusions of the development are not considered to be unacceptable in the streetscape.

Overall, the siting of the proposed development is consistent with the outcomes of the front building line development control, as follows:

- *Achieve the desired future character of the Locality.*

Comment:

The proposed development will contribute to the desired mix of low to medium density housing within the Newport Locality, and will complement both street frontages. The proposal is consistent with the bulk and scale of other developments within the area, and as such, the proposal is consistent with the desired future character of the locality.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

The siting of the development in relation to the front setbacks do not result in any unreasonable impacts

- *The amenity of residential development adjoining a main road is maintained.*

Comment:

The non-compliance is found to have minimal impact upon the amenity of the neighbouring properties.

- *Vegetation is retained and enhanced to visually reduce the built form. (En) vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The proposal results in the removal a number of mature trees, however the proposal will result in a significant replanting of the site to enhance the amount of native vegetation to ensure that the visual impact of the proposed built form is appropriately softened and establishes the development in a landscape setting.

The proposed development will create a consistent alignment of built form along the streetscapes. Despite the minor non-compliances proposed, appropriate setbacks are provided to allow the scale of

plantings necessary to screen the associated built form and provide an attractive streetscape.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The proposed development is designed with basement carparking, which will allow all vehicles to exit in a forward direction.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The bulk and scale of the proposed development is appropriately minimised by virtue of two street frontages along with modulation and varied use of materials. The minor 300-500mm areas of non-compliance do not contribute to the perception of excessive built form.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The non-compliant elements are satisfactory in terms of the contribution to the visual impact, streetscape and pedestrian amenity.

As discussed above, the non-compliance is consistent with streetscape, and will not have an unreasonable visual impact when viewed from adjoining streetscape by the pedestrians.

- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment:

The proposed building includes progressive setbacks and effective levels of vertical and horizontal articulation such that, given the size, topographical and vegetative constraints of the site, visual dominance is minimised as much as possible with the resulting building alignments and proportions being generally consistent with that of other medium density developments in the area.

The non-compliance's resulting from the development are not considered to add unreasonable bulk to the development due to their open form which contributes towards the articulation of the building.

Therefore, having regard to the above, it is considered that the proposed development is consistent with the relevant objectives of Pittwater 21 DCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the variations to the Front Boundary Setback control are supported, in this particular circumstance.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

The control requires requires side boundary setbacks for multi-dwelling housing to be provided in accordance with the following formula:

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

Where:

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

Using the above the formula, the setback required for the proposed development is stipulated in the table below:

Required	Proposed	Variation to control
Eastern Boundary - 3.95m - 4.4m	4.1m	6.8%
Western Boundary - 4.25m - 4.8m (west)	2.0m -3.0m	29.4 -28.3%

Overall, the siting of the proposed development is consistent with the outcomes of the side setback development control, as follows:

- *To achieve the desired future character of the Locality.*

Comment:

The proposed development will contribute to the desired future character of medium density housing within the locality, and will complement the streetscape. The proposal is generally consistent in terms of setbacks with the adjoining development and as such, the proposal is consistent with the desired future character of the locality.

- *The bulk and scale of the built form is minimised.*

Comment:

The proposed development will create a consistent alignment of built form along the streetscape. Despite the minor non-compliance's proposed, appropriate setbacks are provided to allow the scale of plantings necessary to screen and soften the associated built form and provide an attractive streetscape.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

The siting of the development in relation to the front setbacks do not result in any unreasonable impacts upon views from nearby public or private places.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

The setbacks proposed provide a reasonable level of view sharing, and the proposal will result in a significant enhancement of native vegetation on the site to ensure that the visual impact of the proposed built form is appropriately softened.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment:

The setbacks proposed will afford a reasonable level of privacy, amenity and solar access for future occupants of the development and do not contribute to any unreasonable impacts upon adjoining properties.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment:

The proposed development will result in a significant enhancement of vegetation on the site, minimising the visual impact of the development and ensuring consistency with the streetscape.

- *Flexibility in the siting of buildings and access.*

Comment:

The proposed development comprises adequate setbacks and spatial separation with adequate access to ensure landscaped buffers between properties. The proposed landscaping is well designed to ensure a high level of amenity for future occupants.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The proposed landscaped area includes sufficient dimensions to enable a reasonable level of planting to mitigate the architectural scale of the proposed building without under-utilising or overcrowding the site.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment

The site adjoins B1- Local Centre zoned land on its western boundary, in this regard, it is considered the proposed setback allows for adequate landscape buffers to be provided to this boundary.

Therefore, having regard to the above, it is considered that the proposed development is consistent with the relevant objectives of P 21 DCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the variation to the side setback control is supported, in this particular circumstance.

D10.11 Building envelope (excluding Newport Commercial Centre)

Clause D10.11 of the P21 DCP requires buildings to be sited within an envelope established at a height of 4.2m on the side boundaries extending into the site at 45°.

The development does not comply on the western elevation of the building. The extent of non-compliance is detailed as follows:

Western Elevation - The breach is measured to have an overall length of 23.0m across the two

buildings with an overall height of 1.8m (variation of 75%) as shown in the diagram below (non-compliance is highlighted in yellow).

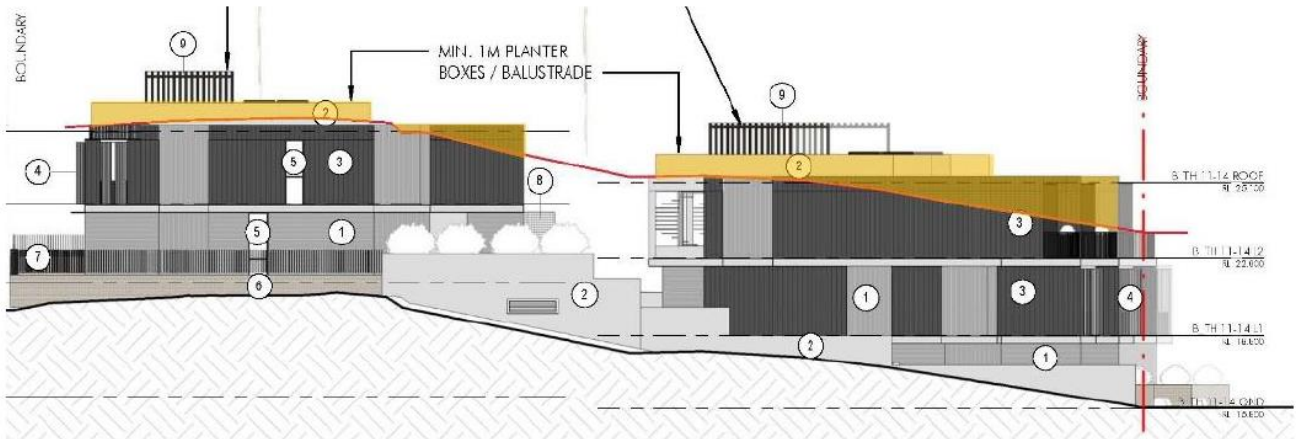


Figure 3: Western Elevation - Non-compliance with Side Boundary Envelope, shown in yellow (source: Statement of Environment Effects by Symonds Goodyer).

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

- To achieve the desired future character of the Locality.

Comment:

The development involves a scale, bulk and height which is considered to be appropriate to the desired future character of the locality.

- To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment:

The proposed building will enhance the streetscapes and includes progressive setbacks and good levels of vertical and horizontal articulation such that the resulting building alignments and proportions are consistent with surrounding development and complementary to the zone.

Because the non-compliance's are predominantly located on the western boundary, which adjoins a B1 commercial zone, and due to the topography of the land, the development will not add to the bulk and scale of the building, such that it will unreasonably dominate its surrounds within the medium density zone.

- To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment:

The building responds sensitively to the natural environment, being designed around existing vegetation and canopy trees, and providing additional landscaping to improve the streetscape.

- The bulk and scale of the built form is minimised.

Comment:

The proposed building includes progressive setbacks and effective levels of vertical and horizontal articulation such that, given the size, topographical and vegetative constraints of the site, visual dominance is minimised as much as possible with the resulting building alignments and proportions being generally consistent with that of other medium density development in the area.

The non-compliance's resulting from the development are not considered to add unreasonable bulk to the development.

- Equitable preservation of views and vistas to and/or from public/private places.

Comment:

As discussed above, the proposed development does not result in an unreasonable impact upon the equitable sharing of views.

- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

The non-compliance is found to have minimal impact upon the neighbouring properties for the following reasons:

Overshadowing

The development is sited and designed to provide adequate sunlight, daylight and ventilation to habitable rooms during midwinter, and does not contribute to any unreasonable overshadowing of adjoining development. As such, the proposal is considered to be consistent with the outcomes of the solar access development control and the proposal is supported in this regard.

Privacy

The development is found to be compliant with the separation requirements relating to visual privacy, and as such, the proposal is considered to be consistent with the outcomes of the privacy development control and the proposal is supported in this regard.

- Vegetation is retained and enhanced to visually reduce the built form.

Comment:

The proposed landscaped area includes both retention of significant existing trees and replacement plantings to enable a reasonable level of landscaping to mitigate the architectural scale of the proposed building without under-utilising or overcrowding the site.

Therefore, having regard to the above, it is considered that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in section 5(a) of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the variations to the building envelope control is supported, in this particular circumstance. _

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$192,139 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$19,213,942.

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

Submissions

As a result of the public exhibition process, the notification of the application resulted in 19 individual

submissions. The main issues were:

- Traffic and Parking impacts;
- Tree removal;
- Building height
- Construction related impact
- Privacy from rooftop terraces
- Excavation impacts
- Notification period too short
- Non-compliance's with setback requirements in Pittwater 21 DCP
- Overshadowing (58 Beaconsfield Street)
- Density and over development of the site

All resident issues have been addressed in the report (see 'Public Exhibition') and were found to not warrant the refusal or further redesign of the application.

Referrals

All external and internal referral departments have raised no objections to the development, with a number of special conditions to be imposed.

Environmental Planning Instruments

The development has been found to be generally consistent with the Matters for Consideration under s.4.15 of the Environmental Planning & Assessment Act, 1979.

The development has been found to be generally consistent with the various provisions of the following Environmental Planning Instruments:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; and
- State Environmental Planning Policy (Infrastructure) 2007

Pittwater Local Environmental Plan 2014

The development has been found to be consistent with the Aims of the Plan and consistent with the Objectives of Clause 4.6 - Exceptions to Development Standards with regard to a variation to the building height standard. The Clause 4.6 Variation is supported for the reasons detailed in this report.

Pittwater 21 Development Control Plan

The development has been found to be consistent with the Objectives of the Plan.

Variations to the following DCP controls were considered to be acceptable due to their consistency with the Objectives of the relevant Clauses:

- D10.7 - Front Building line
- D10.8 - Side and Rear Building Line
- D10.11 - Building Envelope

On balance and as a direct result of the amendments made to the proposed development to address residential amenity, streetscape, traffic and landscape concerns, it is recommended that approval be

granted to the the application subject to the conditions detailed within the “Recommendation” section of this report.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant’s written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/1280 for Demolition works and Construction of a multi unit housing with associated carparking and Landscape works. on land at Lot 3B DP 164259, 62 Beaconsfield Street, NEWPORT, Lot 4A DP 159498, 11 Queens Parade, NEWPORT, Lot 3A DP 164259, 9 Queens Parade, NEWPORT, Lot 2 DP 209106, 7 Queens Parade, NEWPORT, Lot 5A DP 158658, 13 Queens Parade, NEWPORT, Lot 4B DP 159498, 60 Beaconsfield Street, NEWPORT, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
10708_DA002 Issue A (Demolition Plan)	06/11/2019	nettletontribe
10708_DA003 Issue G (Site/Roof Plan)	03/02/2020	nettletontribe
10708_DA004 Issue J (Beaconsfield St Ground Level Plan)	03/02/2020	nettletontribe
0708_DA005 Issue J (Beaconsfield Level 1 Plan & Queens Parade Basement Level Plan)	03/02/2020	nettletontribe
10708_DA006 Issue H (Beaconsfield Level 2 Plan & Queens Parade Ground Level Plan)	03/02/2020	nettletontribe
10708_DA007 Issue F (Beaconsfield Roof Plan & Queens Parade Level 1 Plan)	03/02/2020	nettletontribe
10708_DA020 Issue E (Elevations - Sheet 1)	03/02/2020	nettletontribe

10708_DA021 Issue D (Elevations - Sheet 2)	03/02/2020	nettletontribe
10708_DA030 Issue F (Sections)	03/02/2020	nettletontribe
10708_DA043 Issue C (Adaptable Unit Plan - Type Q1)	12/11/2019	nettletontribe
10708_DA044 Issue C (Adaptable Unit Plan - Type B1)	12/11/2019	nettletontribe
10708_DA045 Issue C (Adaptable Unit Plan - Type B2)	12/11/2019	nettletontribe
10708_DA060 Issue C (Waste Management Detail Plan)	03/02/2020	nettletontribe
10708_DA061 Issue C (Rear Boundary Detail)	03/02/2020	nettletontribe
10708_DA062 Issue A (Western Boundary Detail)	03/02/2020	nettletontribe
10708_DA075 Issue C (Landscape Area Plan)	03/02/2020	nettletontribe

Engineering Plans		
Drawing No.	Dated	Prepared By
D01 - A (Site/Roof Drainage Plan)	08/11/2019	NB Consulting Engineers
D02 - A (Level 2 Drainage Plan)	08/11/2019	NB Consulting Engineers
D03 - A (Level 1 Drainage Bio-retention Inlet Plan)	08/11/2019	NB Consulting Engineers
D04 - A (Level 1 Drainage Bio-retention Onlet and OSD Plan)	08/11/2019	NB Consulting Engineers
D05 - A (Ground Level Drainage Plan)	08/11/2019	NB Consulting Engineers
D06 - A (Music Catchment Plan)	08/11/2019	NB Consulting Engineers
D07 - A (Stormwater Management Notes and Calculations)	08/11/2019	NB Consulting Engineers
D08 - A (Stormwater Management Details)	08/11/2019	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (1054289M)	11 November 2019	Eco Certificates Pty Ltd
NATHERS Certificate (0004346360)	11 November 2019	Eco Certificates Pty Ltd
Geotechnical Report (32714Brpt)	29 October 2019	JKGeotechnics
Arboricultural Report	13 November	Footprint Green Pty Ltd

	2019	
Traffic and Transport Assessment Issue B	November 2019	Transport and Traffic Planning Associates
Disability Access Report (J000378)	14 November 2019	Cheung Access Pty Ltd
Fire Engineering Statement (12520813)	08 November 2019	GHD Pty Ltd
Construction Management Plan Rev.1.2	February 2020	Auswide Consulting
BCA 2019 Indicative Compliance Report Design Phase Issue 1	12 November 2019	Building Certificates Australia

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L.SK.01 (Landscape Sketch Plan - GF)	14/11/19	Scape Design
L.SK.02 (Landscape Sketch Plan - Roof)	14/11/19	Scape Design
L.SK.03 (Landscape Planting Plan - GF)	14/11/19	Scape Design
L.SK.04 (Landscape Planting Plan - Roof)	14/11/19	Scape Design
L.SK.06 (Detailed Plan 1)	14/11/19	Scape Design
L.SK.07 (Detailed Plan 2)	14/11/19	Scape Design
L.SK.08 (Landscape Sections)	14/11/19	Scape Design

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	14/11/19	Stable Innovations Pittwater Shores

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. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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) 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.

3. 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) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$192,139.42 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 \$19,213,942.00.

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

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.

5. 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).

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

6. Construction, Excavation and Associated Works Security Bond (Road works)

The applicant is to lodge a bond with Council of \$75000.00 as security against any damage or failure to complete the construction of Kerb & gutter and concrete footpath reconstruction 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

7. On slab landscape planting and associated works

- a) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.
- b) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.
- c) The following soil depths are required in order to be counted as landscaping:
 - 300mm for lawn
 - 600mm for shrubs
 - 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

8. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JKGeotechnics dated 29 October 2019 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.

9. Detailed Design of Stormwater Treatment Measures

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the plans prepared by NB Consulting Engineers dated October 2019.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment

10. BCA Report (Class 2-9)

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the proposed building does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the building works required to ensure that the specified measures and facilities for the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

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

11. 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 NB Consulting Engineers, drawing number D01 to D08 issue A (1909119), dated 09-11-2019. 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.

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

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

The application is to include four (4) copies of Civil Engineering plans for the design of concrete footpath, kerb & gutter and vehicular crossings which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. Construction of 2.5 metres wide concrete footpath fronting both Beaconsfield Street and Queens Parade.
2. The nature reserve shall be regarded to provide a 4 percent cross fall. If services are encountered the graded may have to be revised subject to detail assessment during the preparation of the design and construction plan.
3. Retaining wall required shall be constructed wholly within the private property.
4. The vehicular crossings 6.0 metres wide on both road frontages in accordance with

- Northern Beaches Council vehicular crossing profile.
5. Design plan with levels, longitudinal grades and cross-section for both driveways.
 6. Design and sectional plans for the 2.5 footpath and regrading nature reserve along both Beaconsfield Street and Queens Parade.
 7. All trees that are to be protected and not permitted to be removed must be clearly marked in the design plan. Tree protection measures are to be provided.
 8. Removal of existing Kerb & Gutter fronting both Beaconsfield Street and Queens Parade and reconstructed to Council standard lay backs and kerb & gutter.
 9. Line marking are required to be provided where required for traffic management.

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 Certifying Authority prior to the issue of the Construction Certificate

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

13. Structural Adequacy and Excavation Work

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

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

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

Reason: To provide public and private safety.

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

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

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

15. Stormwater Drainage Application

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of

Civil Engineering plans for the design of the of stormwater pipe connection to Council's pit located in Beaconsfield Street which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

16. 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.

17. External Colours and Materials (Industrial, Commercial, Mixed & Apartment Buildings)

(a) External Glazing - The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

(b) External Roofing - The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

(c) Anti Graffiti Coating - The finishes of the walls adjoining <STREET NAME> must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

18. 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.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

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; and
- The location and operation of any on site crane.

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

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

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

19. Vehicular Swept Paths.

20. Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles. (DACTRCPC2)

20. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Council Development Control Plan – Part C9 Waste Management, including the required Northern Beaches Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Development Control Plan – Part C9 Waste Management, 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

21. 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.

- 5 Kaliny Street, Newport;
- 58 Beaconsfield Street, Newport;

- 15-17 Queens Parade, Newport; and
- 54 Beaconsfield Street, Newport

The dilapidation report is to be prepared by a suitably qualified person. 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 arising 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.

22. Tree trunk, branch and root protection

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on Existing Tree Plan Dwg. No. L.SK.05 dated 14/11/19 prepared by Scape Design, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining private 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 50mm diameter unless directed otherwise by the Project Arborist on site.
 - iii) All tree protection to be in accordance with the recommendations of the Arboricultural Impact Assessment dated 13 November 2019 prepared by Footprint Green 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 planning controls 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.

23. Project Arborist

- 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 the Arboricultural Impact Assessment dated 13 November 2019 prepared by Footprint Green 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.

24. Tree removal within the road reserve

- i) This consent includes approval to remove trees located within the road reserve as indicated on Existing Tree Plan Dag No. L.SK.05 dated 14/11/19 prepared by Scape Design
- ii) Removal of approved trees in the road reserve shall only be undertaken by a Council approved tree contractor.
- iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council Public Trees Section prior to removal.

Reason: Public liability

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. Road Reserve

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

Reason: Public Safety.

26. 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.

27. Survey Certificate

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

28. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be

adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

29. 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. (DACTREDW1)

30. Substitution of Stormwater Treatment Measure

The substitution of an "equivalent" device for the stormwater treatment measure approved in the Development Application process must first be approved by the Principal Certifying Authority.

Details must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed.

31. Installation and Maintenance of Sediment and Erosion Control

All Site drainage and sediment and erosion control works and measures as described in the Soil and Water Management Plan and any other pollution controls, as required by these conditions shall be implemented prior to commencement of any other works at the Site.

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

Reason: Protection of the receiving environment

32. Dewatering Management

Discharge must achieve the following water quality targets in addition to any conditions/documentation of this consent and legislation including Protection of The Environment Operations Act 1997 and Contaminated Lands Act 1997.

Parameter	Criterion	Method	Time Prior to Discharge
Oil and grease	No visible	Visual inspection	<1 hour
pH	6.5- 8.5	Probe/meter	<1 hour
Total Suspended Solids (TSS)	<50mg/L	Meter/grab sample measures as NTU	<1 hour

NOTE: The correlation between NTU and TSS must be established by a NATA accredited laboratory prior to the commencement of dewatering activities.

All records of water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted.

Reason: Protection of the receiving environment.

33. Protection of stormwater treatment measures during construction

Until the development site has been fully stabilised in 90 percent of the catchment area for the stormwater treatment measures, measures that incorporate filter media and plantings must not be completed nor filter devices installed. Alternatively, completed/installed stormwater treatment measures must be kept offline until this milestone is reached.

Reason: Protection of stormwater treatment measures.

34. Waste/Recycling Requirements (Waste Plan Submitted)

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

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

35. 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**

36. 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.

37. 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.

38. Certification for the Installation of Stormwater Quality System

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by NB Consulting Engineers dated October 2019. The certificate must confirm that stormwater treatment devices are completed, online, in good condition and are not impacted by sediment.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

39. Stormwater Treatment Measures Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal ra
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure
 - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to
3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal

- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater
- g) Requirements for inspection and maintenance records, noting that these records are

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

40. Works as Executed Drawings - Stormwater Quality System

Works as Executed Drawings for the stormwater quality system must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

41. Post-Construction Dilapidation Report

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

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

42. Consolidation of Lots

Lot 3B DP 164259, Lot 4A DP 159498, Lot 3A DP 164259, Lot 2 DP 209106, Lot 5A DP 158658, and Lot 4B DP 159498 must be consolidated as one (1) allotment and registered on a survey plan (prepared and signed by a Registered Surveyor) with the NSW Land Registry Services.

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

Reason: To ensure development is not constructed over property boundaries

43. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

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

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

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

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

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be obtained from LRS.

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

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

45. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such

covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

46. Strata Management Statement - stormwater treatment measures

The Strata Management Statement must specifically list the stormwater treatment measures that will be maintained under strata title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

47. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

48. Works as Executed plan and certification of Council Road and Footpath Works.

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed footpath, kerb & gutter and crossing works have been constructed in accordance with this consent and the approved Section 138 Road Act approved plans. Works as Executed plan details overdrawn in red on a copy of the approved road works plan and certified by a registered surveyor in relation to boundaries.

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

49. Required Planting

i) Trees shall be planted in accordance with the following:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on Landscape Plan Dwg. No. L.SK.03 dated 14/11/19 prepared by Scape Design	As indicated on the Landscape Plan	As indicated on the Landscape Plan

ii) Additional street tree planting - Plant two additional *Hibiscus tileaceus* in the Beaconsfield Street road reserve, one each forward of Units 12(A) and 14(A)

- iii) All street trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- iv) All street trees shall be planted into a prepared planting hole a minimum of 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, and mulched to 75mm depth minimum,
- v) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

50. Garbage and Recycling Facilities

All internal walls of the storage area shall be rendered to a smooth surface, covered 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)

51. Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines
(https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

52. Undergrounding of Telecommunications Services

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACPLF06)

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>> 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. Signage and Linemarking – External.

A plan demonstrating the proposed signage and line marking within Council’s Public Domain shall be prepared by a suitably qualified person and submitted to and approved by the Local Traffic Committee prior to the issue of any Occupation Certificate.

Note: The applicant is advised that the plan will require approval by the local Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process

Reason: To ensure consistent parking amenity. (DACTRFPOC1)

55. Basement Garage Traffic Signal System.

To prevent conflicting vehicle flows on the internal basement garage ramp and avoid vehicles having to reverse up/ down the ramp, a traffic signal system must be installed at each ramp entry, designed to warn drivers about to enter the road of any conflicting vehicle approaching.

The signal system must;

- be clearly visible from ramp entrances and where applicable the on street waiting space,
- is to clearly indicate to an approaching driver, by way of red light or wording, that an opposing vehicle has entered the 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 (DACTRFPOC2)

56. Waste and Recycling Facilities Certificate of Compliance

The proposal shall be constructed in accordance with Northern Beaches Development Control Plan – Part C9 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)

58. Positive Covenant for Waste Services

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

59. Authorisation of Legal Documentation Required for Waste Services

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land. (DACWTF04)

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

60. Undesirable Trees

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

61. Maintenance of Stormwater Treatment Measures

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications

and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

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

Reason: Protection of the receiving environment

62. Condition for on going - Waste service

Waste services for bins- Building management to take bins to the collection points on Beaconsfield Street and Queens Parade on the night before the collection day. Bins are to be returned to the bin stores once waste service has been completed.

Bulky good store- Building management to take bulky goods from the store room to kerb side the night prior to the booked collection date. Complex booking only, not individual unit bookings.

Reason: To assist with the waste service collection.(DACHEGOG1)

63. 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.

iii) Shrub and groundcover planting located in the Beaconsfield Road and Queens Parade road reserves as indicated on the approved Landscape Plans is to be maintained by the relevant property owners/body corporate.

Reason: To maintain local environmental amenity.

64. Visitors Sign

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

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 that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

65. Loading and Unloading

All loading and unloading of vehicles and the delivery of goods must be carried out wholly within the site.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)