

17th February 2023

The General Manager
Northern Beaches Council
Po Box 882
MONA VALE NSW 1660

Attention: Gareth David – Planner

Dear Mr David,

Application Mod 2022/0471
Issues response/ addendum Statement of Environmental Effects
Seniors Housing Development
1955 Pittwater Road, Bayview

Reference is made to Council's issues letter of 16th December 2022 and subsequent discussions with Council staff regarding the detailing of the application. This submission represents a considered response to the issues raised and is to be read in conjunction with the following amended documentation:

- Architectural plans (Revision date 28/1/23) prepared by A+ Design Group,
- Amended landscape plans, dated 10th February 2023, prepared by Site Image Landscape Architects,
- View study, dated 1st February 2023, prepared by A+ Design Group,
- Booster assembly location advice, dated 7th November 2022, prepared by Innova Services Australia,
- Disability Access Report, dated 8th February 2023, prepared by Inclusive Places.

We respond to the issues raised as follows.

1. Retrospective Approval of Existing Works

Response: The construction works already undertaken on site have been surveyed with the proposed architectural plans overlaid upon this survey. Such overlay confirms that there are relatively minor discrepancies between the location and extent of approved structural basement wall elements and the as built structural components of the development. We note that the "as built" shotcrete piling wall and capping beams are retained with these works carried out in accordance with CC2021/0122.

The capping beam slab extension and associated concrete retaining wall located within the south-eastern setback are also being retained as necessary structural components with these works being the only physical works considered to be inconsistent with the various approvals for development on the site.

Having regard to the judgment in *Ku-ring-gai Council v Buyozo Pty Ltd* [2021] NSW CA 177 we confirm that this modification application does not seek the retrospective construction approval for the capping beam slab extension and associated concrete retaining wall but simply approval for the use of these works. The physical aspect of these works can be regularised by way of a Building Information Certificate as necessary.

Under such circumstances, Council is able to impose a condition of consent clearly stating that consent is granted to the residential use (not the construction) of the “as built” capping beam slab extension and associated concrete retaining wall located within the south eastern setback of the development consistent with the condition recently imposed/ endorsed by the Land and Environment Court in the matter of *Garling v Northern Beaches Council* [2022] NSWLEC 1512.

2. Insufficient documentation – Plans/ Schedule of Changes/ Statement of Modification

Response: The architectural plans have been amended to clearly identify, by way of clouding and numbering, the following modifications:

1. Entry Pedestrian Ramp – Increased pedestrian ramp width to 1600mm for Accessibility.
2. Building Entry - New awning and vertical louvre screen to increase sense of entry.
3. Balcony Articulation - New curved balconies for improved aesthetics. Increase in outdoor private open space area and solar access for improved amenity.
4. Fencing - New fencing to provide safety and security.
5. Roof - New rooftop plant enclosure to comply with services requirements.
6. First Floor Roof Deck/ Landscaping - Change in configuration of First Floor roof deck to integrate with overall building aesthetics. New landscape buffer around perimeter of First Floor roof deck for improved privacy and softening of built form.
7. Roof & Floor RL - Adjustment in floor-to-floor heights to reflect structural and building services requirements.
8. Vehicular Access - Design development to comply with accessibility & Australian Standards.
9. FRNSW Requirement - to provide hardstand & fire hydrant booster assembly, requiring removal of tree T3 (Refer to Arborist Report).
10. Carpark Floor Plan – Parking reconfiguration within approved footprint.
11. Lower Ground Floor Plan – Increase in Unit 4 storage area to accentuate recess and alignment between the two modulated built forms. Louvred door and panels for maintenance and ventilation. New landscaped terrace to integrate with cascading balconies above and overall building aesthetics.

12. Unit layouts - Internal reconfiguration and increase in unit size for improved amenity.
13. Elevations - Removal of wall break in east elevation of Units 3 and 4. Revised façade and window treatments associated with plan amendments.
14. Boundary Fence - 1.8m high painted capped and lapped fencing in Dulux 'Winter Fog'.
15. Vertical Screening - Continuation of vertical screening over lift shaft to accentuate recess between the two modulated built forms.
16. Proposed terrace extensions.
17. The implementation of a modified landscape regime including on slab planting over the retained capping beam slab within the south-eastern setback.

The architectural plan bundle contains a side-by-side comparison of the approved and modified development footprint, form and landscaped area circumstances including the "as built" survey underlay as previously identified. These diagrams demonstrate that the development as modified remains substantially the same as the development for which the original consent was granted.

In relation to the changes proposed to the floor, roof parapet and lift overrun levels we rely on the commentary contained within the original Statement of Environmental Effects including the accompanying View study, dated 1st February 2023, prepared by A+ Design Group. We note the roof top plant has been consolidated around the lift overrun to minimise its visual impact with the accompanying shadow diagrams demonstrating that compliant levels of solar access are maintained to surrounding properties notwithstanding the modest increase in overall building height proposed. Having reviewed the view analysis we are of the opinion that a view sharing scenario is maintained from surrounding development having regard to the planning principle established by the Court as adopted by P21 DCP.

We are also satisfied that given the juxtaposition of surrounding development that the fenestration and balcony modifications proposed will not compromise the levels of privacy afforded between adjoining development through approval of the original application and subsequent modifications with the landscaped buffer proposed around the perimeter of the first floor roof deck providing for an improved privacy interface to adjoining development. We note fixed privacy screens have been provided to the north-west facing side boundary windows within Unit 2 to ensure the maintenance of appropriate privacy to the adjoining property.

In relation to landscaping we note that the accompanying landscape plans prepared by Site Image Landscape Architects confirm a landscaped area, as defined of 47% with 38.5% of the site available for deep soil landscape. Sheet 601(B) shows the on-slab planting proposed over the capping beam slab extension within the south-eastern setback with the balance of the landscaping proposed providing for an enhanced landscape outcome compared to that previously approved. This includes the provision of a total of 35 additional replacement trees compared to the 28 originally approved replacement trees.

The approved developments performance when assessed against of the provisions of the now repealed State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, which has been replaced by State Environmental Planning Policy (Housing) 2021, is not compromised as consequence of the modifications sought. In this regard we note that the overall height of the building remains compliant with the 8 metre upper ceiling height standard and well below the 9.5/11metre height standard pursuant to the Housing SEPP.

The accompanying GFA/ FSR calculation diagrams confirm that the minor increase in GFA proposed results in a development that remains compliant with the “shall not refuse” FSR threshold standard of 0.5:1 contained within SEPP HSPD and SEPP (Housing). Compliant landscaped area and deep soil landscaped area are also maintained pursuant to these SEPP’s. The development, as modified, will not give rise to any inappropriate or jarring streetscape or residential amenity impacts.

Under such circumstances, we have formed the considered opinion that the development in its modified form is complimentary and compatible with the form of development established within the locality with the building sitting within a landscaped setting. The overall architectural design and landscape quality of the development are significantly enhanced as a consequence of the modifications sought.

3. Unit 4 Storage and Terrace

Response: The modified plans have been amended to reduce the size of the maintenance access door with a simple louvred door and ventilation panel now proposed. This door provides necessary access to the landscaping at the front of the site for maintenance purposes with the adjacent terrace containing a combination of hard and soft landscape elements. These amendments ensure that the lower ground floor level adjacent to Unit 4 is not perceived as an additional storey with the landscaping in the foreground ensuring that it is substantially screened as viewed from the street. Further, the recess/ indent in the street facing façade has been retained as a fundamental design element of the scheme.

4. Height and Building Bulk

Response: The roof extension to the north-east over the Unit 4 roof deck has been deleted with the recess/ indent in the street facing façade maintained through all floors of the development including the uppermost roof form. The recess/ indent in the street facing façade has been retained as a fundamental design element of the scheme. Further, the roof top plant has been consolidated to sit entirely behind the proposed lift shaft to minimise visual impacts from surrounding properties and as viewed from the street.

Pittwater 21 Development Control Plan

5. View Sharing

Response: We rely on our previous commentary and the accompanying view study, dated 1st February 2023, prepared by A+ Design Group to demonstrate that a view sharing outcome is maintained in accordance with the view sharing principles established by the Court as adopted by P21 DCP.

6. Plant, Equipment Boxes and Lift Over-Run

Response: We rely on our previous commentary in relation to the appropriate location of roof top plant.

7. Visual Privacy

Response: The previously approved fixed privacy louvres on the side boundary facing windows have been nominated on the plans as requested.

8. Building Colours and Materials

Response: This submission is accompanied by an amended schedule of materials and colours reflecting the dark and earthy tones sought by the DCP.

9. Landscape Area – General

Response: The accompanying landscape plans nominate a landscaped area as defined of 47% of the site area. We note that whilst this is a reduction from the original approved 53% landscaped area that such landscape quantum is well in excess of the 30% landscaped area/15% deep soil landscaped area provisions contained within SEPP HSPD and SEPP (Housing). The modified landscape plans provide for a significant enhancement in overall landscape quality including the provision of a total of 35 additional replacement trees compared to the 28 replacement trees originally approved.

Internal Referrals

10. Landscape Officer

Response: The accompanying booster assembly location advice, dated 7th November 2022, prepared by Innova Services Australia confirms that the currently proposed booster assembly location is the only location on the site that meets the Australian standard and FRNSW operational requirements. We also note that the hard stand area located adjacent to the fire hydrant booster assembly now has a grass cell finish to reduce the visual impact of the hard stand area as viewed from street.

11. Bushland and Biodiversity

Response: We rely on the information submitted in response the landscape referral comments to demonstrate that there is no feasible alternative location of for the fire hydrant booster assembly and required adjacent hard stand/ grass cell area.

12. Development Engineering

Response: The architectural plans have been amended to nominate a 5.5 metre wide driveway with a 6 metre long passing bay located within the property boundary as requested.

13. Urban Design

Response: The amended Architectural plans contain the additional building heights, shadow analysis and the inclusion of the proposed booster assembly on the 3D perspective and drawn documentation. The amended landscape plans now nominate the number, location and size of trees that were to be retained as part of the original LEC approval together with the trees proposed for retention as a component of the current modification application.

Issues with the Supporting Documentation

14. Fence detail

Response: Proposed fencing has now been detailed on the architectural plans.

15. Existing approval overlay

Response: The architectural bundle includes comparative side-by-side diagrams and an “as built” survey overlay as requested.

16. Location of the new buildings relative to existing RL's

Response: The architectural bundle now includes building footprint overlays on the survey plan to clearly indicate the ground levels below the footprint of the building.

17. Updated access report

Response: This submission is accompanied by a Disability Access Report, dated 8th February 2023, prepared by Inclusive Places.

Other issues for discussion

18. Additional building envelope non-compliance

Response: The overall increase in building height has resulted in a relatively minor breach of the building envelope control in the eastern corner of Unit 4 and the northern corner of Unit 2 as the land form falls away towards the street. As previously indicated, the increase in building height does not give rise to any inappropriate or jarring streetscape or residential amenity impacts in terms of view loss, privacy impact or overshadowing. The increase in building height does however significantly enhance buildability and the overall design quality and amenity of the development. Under such circumstances strict compliance is unreasonable and unnecessary.

19. Privacy from new balconies and roof terrace

Response: The reconfiguration of the street facing balconies and roof terrace will not give rise to any unacceptable privacy impacts with the landscaped buffer proposed around the perimeter of the first floor roof deck providing for an improved privacy interface to adjoining development.

20. Additional size of roof terrace

Response: Whilst the size of the roof terrace has been increased, the landscaped buffer proposed around the perimeter of the first floor roof deck prevents downward views into the adjoining property and to that extent an appropriate privacy interface with adjoining development.

21. Gross Floor Area

Response: We confirm that the floor area of the ancillary storage areas have not been included in the GFA/FSR calculation plan because ancillary storage is excluded from the calculation pursuant to the definition of GFA contained within SEPP HSPD.

22. Additional rear terraces

Response: We confirm that the rear facing Unit 4 family room terrace has been deleted and the proposed rear terrace extensions to units 2 and 3 clearly nominated on the plans. These terrace extensions are located over the floor plate below and to that extent do not reduce deep soil landscape opportunity around the site. The location of the terraces relative to the levels of adjoining properties will ensure that they will not give rise to any adverse privacy impacts. They do however contribute significantly to the amenity of these apartments. The deep soil landscaping at the rear of the site is not compromised as a consequence of these terrace extensions.

23. Colours and materials

Response: As previously indicated, this submission is accompanied by an amended schedule of materials and colours reflecting the dark and earthy tones sought by the DCP. This is reflected in the updated montages over page.



24. Cost of works

Response: As contributions have already been levied and paid on this development pursuant to section 94 of the Act we do not consider the provision of an updated quantity surveyors report to be necessary under the circumstances.

We trust that this submission comprehensively addresses the issues raised by Council and will enable the favourable assessment and determination of the application.

Please do not hesitate to contact me to discuss any aspect of this correspondence.

Yours sincerely

BOSTON BLYTH FLEMING PTY LIMITED

A handwritten signature in black ink, appearing to read 'Greg Boston', with a stylized flourish at the end.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

B Env Hlth (UWS)

Director